

Iaa6neal

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 CHRISTOPHER NEAL,

4 Plaintiff,

5 v.

15 Civ. 2822 (RA)

6 POLICE OFFICER ROMAIN WILSON,
7 et al.,

8 Defendants.

Trial

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9 New York, N.Y.
10 October 10, 2018
10:00 a.m.

11 Before:

12 HON. RONNIE ABRAMS,

13 District Judge
14 -and a Jury-

15 APPEARANCES

16 IHSAN DOGRAMACI
17 Attorney for Plaintiff
17 -and-
18 HIGGINS & TRIPPETT LLP
18 BY: THOMAS P. HIGGINS

19 ZACHARY W. CARTER
20 Corporation Counsel of the City of New York
21 New York City Law Department
21 Attorney for Defendant City of New York
22 BY: MARIA F. DeCASTRO
22 NICHOLAS D. MANNINGHAM
23 Assistants Corporation Counsel

24
25 Also Present: Genisa Monroe, Paralegal

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1 (In open court; jury not present)

2 THE COURT: Good morning everyone. The jury is here
3 so we'll bring them in now.

4 I assume everyone got the draft charge. I know you
5 may not have had time to read it. I apologize for sending it
6 so late. We will see how much you read over the half an hour
7 break today. Ideally we can meet at 2:30 if you are ready.

8 Mr. Neal, can you come back up, please, sir.

9 (Continued on next page)

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Neal - cross

1 (In open court; jury present)

2 THE COURT: Good morning everyone. Thank you for
3 being so prompted today. Everyone can be seated.

4 We have a short day today. We're going to sit for two
5 hours and take a half hour break and sit for another two hours.
6 If anyone needs to use the rest room, just raise your hand.

7 Mr. Neal, I remind you you are still under oath.

8 You may proceed.

9 CHRISTOPHER NEAL, resumed.

10 CROSS-EXAMINATION (Cont'd)

11 BY MS. DECASTRO:

12 Q. Good morning, Mr. Neal.

13 A. Good morning.

14 Q. Before we left yesterday we were talking about the use of a
15 Taser; right?

16 A. I guess.

17 Q. Okay. Since yesterday have you talked to anybody about
18 your testimony?

19 A. No.

20 Q. Have you reviewed the transcript that was generated from
21 the testimony yesterday?

22 A. Some of it.

23 Q. Now, you testified on direct examination yesterday that the
24 reason that you fell onto the bed was because you were punched;
25 right?

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Neal - cross

1 A. No. What I said was I had an officer pulling me, I had an
2 officer who you hit me with a body hold, and then there was a
3 punch.

4 Q. Keep your voice up. I cannot hear you.

5 A. I said I had an officer that was pulling this arm, an
6 officer that put a body hold on me, and then I was hit and I
7 fell into the door. It is like a motion. It is not like you
8 are standing there and pull you and somebody hit you. It is a
9 lot of things going on.

10 Q. Well, isn't it a fact that you actually fell into the
11 bedroom because you tripped?

12 A. No.

13 Q. That is not a fact?

14 A. It should be. Somebody punched me and I guess somebody
15 else tripped me with their foot. I testified to that --

16 Q. So you testified --

17 A. -- at my disposition (sic).

18 Q. You testified previously that the reason that you fell into
19 the bed was because you tripped; right?

20 A. Yes. Somebody tripped me after I was hit.

21 Q. I can't hear you. I am sorry.

22 A. After I was hit, I was tripped.

23 Q. Okay. Yesterday you neglected to add the part about being
24 tripped; right?

25 A. Yes.

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Neal - cross

1 Q. In fact, previously you never mentioned at your deposition
2 or elsewhere that you were punched prior to being tripped;
3 right?

4 A. No.

5 MR. DOGRAMACI: Objection.

6 THE COURT: Overruled.

7 A. That's not true.

8 Q. That's not true?

9 A. I believe I supplemented my original complaint I believe
10 like two or three times and I believe I stated that in one of
11 those.

12 MS. DECASTRO: Can I have a moment, your Honor?

13 THE COURT: Yes.

14 (Pause)

15 Q. Which amended complaint is it that you --

16 A. I don't remember. I don't remember. I put in three of
17 them. I know one of those got rejected while in the magistrate
18 judge's. So I don't know if it was the one that got rejected.
19 I don't remember.

20 Q. We'll come back to that.

21 Isn't it a fact that at your deposition you never
22 mentioned that you were punched prior to being tripped?

23 A. That I don't recall.

24 MR. DOGRAMACI: Objection. We're going into past
25 statements of his that have not been -- it is not about them

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Neal - cross

1 being inconsistent with anything said here.

2 THE COURT: I am going to allow you to ask and Mr.
3 Neal can respond.

4 Q. What was your response, Mr. Neal?

5 A. State it again.

6 Q. Isn't it a fact at your deposition you did not mention that
7 you were punched prior to being tripped?

8 A. I don't recall.

9 Q. Do you want to take a look at your deposition transcript
10 again?

11 A. Yeah.

12 MR. DOGRAMACI: Your Honor, does the witness have a
13 copy?

14 THE COURT: I don't see it. Can you give him a copy?

15 MS. DECASTRO: The testimony is at 114 about the
16 incident on the bed.

17 A. Actually, it is several spaces in here that I talk about
18 that.

19 MR. DOGRAMACI: What is the line number?

20 MS. DECASTRO: 114, line 13 to line 18.

21 MR. DOGRAMACI: No objection, your Honor.

22 BY MS. DECASTRO:

23 Q. Mr. Neal, at your deposition were you asked these questions
24 and did you give this answer:

25 "Q. What, if anything, happened after you got Tased?

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Neal - cross

1 "A. After whoever came by an tripped me, I fell. I believe
2 that to be Sergeant Bones. I fell on the bed. I had two
3 officers on my back, another trying to grab my right harm,
4 another trying to grab my left arm."

5 Were you asked those questions and did you give those
6 answers?

7 A. You said 114?

8 Q. Yes. Line 13 to line 18.

9 A. Oh. Well, if it is here, that is what I testified to.
10 That's what I said.

11 Q. You would agree nowhere in there is this accusation by you
12 that you were punched?

13 A. No.

14 Q. Yes; right?

15 A. Yeah, in here.

16 Q. So you were asked those questions and you gave those
17 answers; right?

18 A. Yes.

19 Q. Now, on direct examination you also stated that when you
20 fell onto the bed you had one officer holding your right leg
21 while another officer was holding your left leg; is that right?

22 A. Yes.

23 Q. That is what you said yesterday; right?

24 A. Yes.

25 Q. But just like that other thing at your deposition, you

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Neal - cross

1 never claimed that you had an officer on your left leg and an
2 officer on your right leg?

3 A. I mean, if you look at the complaint, the complaint states
4 that I didn't know who was on where. I know what I felt. I
5 don't know who was holding me where or anything like that. I
6 know in the complaint -- in my complaint, I stated I felt hits,
7 punches and pulls.

8 Q. Mr. Neal, at your deposition, you never testified when you
9 were testifying about the incidents in this case that you
10 brought this lawsuit that you had an officer at your left leg
11 and that you had an officer on your right leg; isn't that a
12 fact?

13 A. Yes.

14 Q. In fact, at your deposition you claimed that you had two
15 officers at your back and two officers one at your right arm
16 and one at your left arm; isn't that a fact, too?

17 A. Yes. Because that is what it felt like.

18 MR. DOGRAMACI: Objection to the questions about what
19 he said at his deposition. He can testify now as to what he
20 believes and if it is inconsistent --

21 THE COURT: I think we're past that point now. Okay.

22 Q. During all of this your stepdaughter Shaquana was in the
23 apartment; right?

24 A. I wouldn't know.

25 Q. Well, your stepdaughter Shaquana was there immediately

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Neal - cross

1 prior to your being Tased you claim?

2 A. I know I seen her coming. I didn't know where she was
3 after that.

4 Q. But she was there after that?

5 A. I don't know.

6 Q. You saw her when the dog came out; right?

7 A. She came and grabbed the dog.

8 Q. That means she was in the apartment; right?

9 A. I guess. I don't know.

10 Q. Well, she went to grab the dog -- that is what you stated;
11 right?

12 A. Yes.

13 Q. That means that she was in the apartment; right?

14 A. Yes.

15 Q. Shaquana was actually in the room while you were trying to
16 get away from the officers, wasn't she?

17 A. No. I didn't see her. I was never trying to get away from
18 the officers. I was trying to stop them from putting their
19 hands on me. I wasn't trying to go anywhere. I had no reason
20 to go anywhere. Why can I go anywhere?

21 Q. Mr. Neal, at your deposition --

22 MS. DECASTRO: This is at page 108, line one to line
23 nine.

24 MR. DOGRAMACI: No objection.

25 THE COURT: All right.

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Neal - cross

1 Q. At your deposition were you asked this question and did you
2 give this answer?

3 "Q. Can you describe what you were doing to try to get their
4 hands off of you?

5 "A. Pushing them off of me. Trying to break their hold on me.
6 Like, get off me. I am physically trying to get away. Get off
7 me. Trying to push them off me. Get off me. Get off me.
8 Then when the dog came out, I backed up into the kitchen. He
9 is right next to me. Shaquana walked by me and grabbed the
10 dog. I am in the kitchen. The next thing I know I am getting
11 Tased."

12 Were you asked those questions and did you give those
13 answers?

14 A. Yes, I did.

15 Now, let me explain that. What I mean by get away, it
16 is get away from them putting their hands on me. Not literally
17 trying to get away. I have an officer blocking the window. I
18 have officers in the doorway. Where am I going? Where am I
19 going?

20 Q. Those were your words not my words; right?

21 A. Now it seems you are trying to get the jury to believe I
22 was trying to run away when I was trying to get away from them
23 putting their hands on me.

24 Q. Mr. Neal, those words were the words you used at your
25 deposition; isn't that a fact?

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Neal - cross

1 A. Right.

2 Q. Those are not the words I was trying to put in your mouth?

3 A. You are not trying to put any words in my mouth. I am just
4 making it clear because it seems that you are trying to give an
5 impression that I was actually trying to run away and that is
6 why the officers Tased me.

7 Q. Didn't you just hear in that statement that you stated I am
8 physically trying to get away? That is what you said on that
9 day of the deposition, isn't it?

10 MR. DOGRAMACI: Objection. We just had something like
11 nine lines of the deposition read and if we're going to be
12 reading it, we should read all nine lines.

13 THE COURT: You read all nine lines already?

14 MS. DECASTRO: Yes.

15 THE COURT: Okay.

16 You can answer the question.

17 A. State that again.

18 Q. Your words were, I am physically trying to get away. Those
19 were your words, not mine.

20 A. Yes, yes, yes. That is what I stated. Yes, that's what I
21 stated.

22 Q. Mr. Neal, when you were testifying on direct examination
23 yesterday, you said you weren't sure how you got to the
24 hospital. You said it was either by ambulance or by van;
25 right?

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Neal - cross

1 A. Yes.

2 Q. Can I show you something to refresh your recollection as to
3 how you got to the hospital?

4 A. Yes.

5 Q. Okay. You have your deposition in front of you. If you
6 look at page 130, lines 4 to 6.

7 A. Yeah. I stated it was a van.

8 Q. Does that refresh your recollection as to how you were
9 transported to the hospital?

10 A. I stated it was by a van. I still wasn't really unclear.
11 All I know is I -- even right now I would state I don't
12 remember. I stated it was a van here.

13 Q. But right now you just don't remember?

14 A. Nope.

15 Q. Can I use something else to refresh your recollection?

16 A. Yes.

17 MS. DECASTRO: Can I hand this up to the witness?

18 THE COURT: Go ahead.

19 THE WITNESS: Thank you.

20 MS. DECASTRO: Showing the witness what has been
21 marked for identification as Defendant's Exhibit A, the last
22 two pages.

23 Q. Can you take a look at that, Mr. Neal.

24 Looking at the document does this refresh your
25 recollection as to how you were transported to the hospital?

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Neal - cross

1 A. No.

2 Q. What does this document appear to be to you?

3 A. I don't know.

4 Q. Now, you stated that you were brought immediately to the
5 hospital after your arrest; right?

6 A. I was taken downstairs. I said I was handcuffed. I walked
7 downstairs, stood off to the side where I had a conversation
8 with Officer Rodriguez about what was that all about, where I
9 apologized to him my dog doing what he did -- what she did to
10 his shoe and then I was taken.

11 Q. So you were taken to the hospital only a couple minutes
12 after the incident where you were handcuffed?

13 A. Yes. I don't know if it was minutes. The time frame, I
14 don't know. All I know I was taken to the hospital.

15 Q. So it could have been longer than 10 minutes?

16 A. I don't know.

17 Q. Was it somewhere between one and 10 minutes?

18 A. I don't know.

19 MR. DOGRAMACI: Objection.

20 THE COURT: Overruled.

21 Q. You were brought to Lincoln Hospital; correct?

22 A. Yes.

23 Q. The hospital is in the Bronx; right?

24 A. Yes.

25 Q. You went to Lincoln Hospital before you went to the police

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Neal - cross

1 precinct; right?

2 A. Yes.

3 Q. At Lincoln Hospital you were seen by multiple medical
4 staff, weren't you?

5 A. At least two. I remember that.

6 Q. At least two, but it could have been more; right?

7 A. Maybe. Could have been.

8 Q. You explained to medical staff about what had happened to
9 you; isn't that right?

10 A. No, I didn't. All I stated was that they asked me what
11 happened and I told them I was hit in the head with a bottle.

12 Q. Mr. Neal, I am going to show you what you have in front of
13 you, but I will put it on the Elmo so you can follow along with
14 me.

15 THE DEPUTY CLERK: This is not in evidence; right?

16 MS. DECASTRO: No, just for identification.

17 Your Honor, at this time we do move to have Exhibit A
18 into evidence. It is certified medical records from Lincoln
19 Hospital.

20 MR. DOGRAMACI: No objection.

21 THE COURT: It will be admitted.

22 MS. DECASTRO: At this time we would like to publish
23 it to the jury.

24 THE COURT: That is Defendant's A?

25 THE WITNESS: Yes.

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Neal - cross

1 THE COURT: That's it.

2 (Defendant's Exhibit A received in evidence)

3 BY MS. DECASTRO:

4 Q. Mr. Neal, showing you the second page of this document -- I
5 am sorry, the third page of this document, can you see at the
6 top of this page the left-hand corner where it says, Lincoln
7 Medical and Mental Health Center?

8 A. Yes.

9 Q. Do you see just to the right of that where it says Neal
10 Christopher?

11 A. Yes.

12 Q. That is you; right?

13 A. Yes.

14 Q. A little bit further down do you see where it says ADM?

15 A. Yes.

16 Q. It says 23rd November '12?

17 A. Yes.

18 Q. That is the date that you were treated at Lincoln Hospital;
19 right?

20 A. Yes.

21 Q. Do you see next to that a time?

22 A. Yes.

23 Q. What is that time?

24 A. Well, I see numbers, 0238.

25 Q. So that was 0238. 2:38 in the morning; isn't that what

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Neal - cross

1 that means?

2 A. I don't know what it means.

3 Q. You were arrested at around 2:00 in the morning; right?

4 A. I don't know what time it was.

5 Q. Well, you said on direct examination you had gone to the
6 liquor store around 11:00?

7 A. No. I said around 11:30.

8 Q. So you went to the liquor store around 11:30 and you
9 proceeded to drink for two and a half hours thereafter?

10 A. Yes.

11 Q. That would put us somewhere around 2:00 in the morning,
12 wouldn't it?

13 A. I guess.

14 Q. You weren't arrested prior to that two and a half hour
15 period where you were drinking; right?

16 A. I don't know what you mean by when you say arrest.

17 Q. You weren't handcuffed and brought to the hospital prior to
18 that two and a half hour span between 11:30 and the two and a
19 half hours; right?

20 A. No.

21 Q. So your time that you were placed in handcuffs was
22 approximately 2:00 in the morning; right?

23 A. Could be. Possibly.

24 Q. So it could be; right?

25 A. Yeah.

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Neal - cross

1 Q. So where it says 0238, isn't that the time that you were
2 admitted into the hospital?

3 A. I guess. If that is -- if that is what that is. If that
4 is the time frame, I guess it was 2:30 in the morning.

5 Q. So do you see next to it where it says DIS?

6 A. Yes.

7 Q. It says November 23rd, 2012?

8 A. Yes.

9 Q. That is the same date you were discharged from the
10 hospital; right?

11 A. Yes.

12 Q. Do you see a time next to that?

13 A. Yes.

14 Q. What does that say?

15 A. It says 0305.

16 Q. That is the time you were discharged; right?

17 A. Yes.

18 Q. These medical records are for the treatment that you
19 received at Lincoln Hospital after your arrest; right?

20 A. I guess, yes.

21 Q. Mr. Neal, I am going to direct you to the next page of this
22 document. Do you see where I am pointing where it says mode of
23 arrival?

24 A. Yes.

25 Q. Do you see where it says, Other: Ambulance?

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Neal - cross

1 A. Yes.

2 Q. Does that refresh your recollection about the fact that or
3 whether you were brought to the hospital in an ambulance?

4 A. Well, it says other ambulance so I guess it was an
5 ambulance.

6 Q. So it was an ambulance?

7 A. I don't know. I still say I don't remember. I don't
8 remember if it was a van or an ambulance.

9 Q. When you say a van, you mean police van; right?

10 A. Yeah.

11 Q. Can I ask you to speak up? I can't hear you.

12 A. Yes.

13 Q. Let's turn to page 9 of this document.

14 Actually, page 6 first. I apologize.

15 Do you see the section where it says, Patient's
16 complaint? It's on the screen too if you want to take a look
17 at it.

18 A. Yes.

19 Q. What does that say that your complaint is?

20 A. It says open laceration to the right side of the head, hit
21 with glass bottle.

22 Q. No where in there does it say you were Tased; right?

23 A. No.

24 Q. No where in there does it say you had holes up and down
25 your back; right?

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Neal - cross

1 A. Well, first of all no one examined and looked at my back.
2 Nobody looked at my back.

3 Q. This section is talking about what you were complaining
4 about while you were in the hospital; isn't it?

5 MR. DOGRAMACI: Objection. The witness doesn't know
6 who wrote this or what the person was trying to say.

7 THE COURT: Sustained.

8 Look, you can ask what he said there. He is not a
9 doctor. You can ask him what he said and you can ask him about
10 his experience and you can publish this to the jury as you are,
11 but he obviously didn't write this document.

12 MS. DECASTRO: Yes, your Honor.

13 Q. You did not complain to the hospital that you had holes up
14 and down your back; right?

15 A. First of all, I was agitated and I wanted to get out of
16 there. I wanted to get out of there as quick as possible so I
17 can get through the system.

18 THE COURT: If you can answer the question yes or no
19 please do. If the question was you didn't say that and the
20 answer is yes, say yes. And if the answer is no, say no. If
21 you can't answer it, say you can't answer.

22 THE WITNESS: Yes, your Honor.

23 Q. You did not complain to the doctor that you had holes up
24 and down your back; isn't that a fact?

25 A. No. Because I didn't know they was there.

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Neal - cross

1 Q. You also did not complain to the doctor about being hit
2 with a baton on multiple occasions; right?

3 A. No.

4 Q. You didn't know that was there because you claim you felt
5 those; right?

6 A. Yes.

7 Q. You did not complain to the hospital that you had injured
8 your back; right?

9 A. No.

10 Q. Even though you claim that on direct examination you were
11 in immediate back pain after you were Tased; right?

12 A. Yes.

13 Q. Back pain so bad that if felt like somebody had hit your
14 funny bone a hundred times?

15 A. Yes.

16 Q. Back pain so bad that it actually immobilized you; right?

17 A. Well, the stun. The Taser.

18 Q. Back pain so bad that your whole body froze up according to
19 you?

20 A. I said that the stun immobilized me, not the pain. I am in
21 pain now, but I am mobile.

22 Q. Back pain so bad that you actually said on direct
23 examination that you could not walk; right? You had trouble
24 walking afterwards? It hurts when you walk?

25 MR. DOGRAMACI: Objection, mischaracterized.

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Neal - cross

1 THE COURT: Why don't you rephrase it as one question,
2 please.

3 MS. DECASTRO: Yes.

4 Q. On direct examination yesterday you said that it hurts when
5 you walk now because of that back injury from the Taser; isn't
6 that a fact?

7 A. I said that it -- it re-aggravated it.

8 MS. DECASTRO: Just one moment, your Honor.

9 Q. Do you see where it says, Chief complaint: Head trauma, no
10 LOC? Do you know what that means?

11 A. No.

12 Q. Do you see further down this page where it says,
13 Assessment?

14 A. Yes.

15 Q. Do you see to the right where it says, Appearance:
16 Functional; NUTR; no distress; independent with activities of
17 daily living; appears well nourished; neuro RSP card; oriented
18 to time, person and place; ambulatory; normal gait, no acute
19 respiratory distress; pulse strong and regular. And then it
20 says, Comment: Patient refuses assessment by RN.

21 A. Yes.

22 Q. That means that you refused for the RN to look you over;
23 right?

24 MR. DOGRAMACI: Objection.

25 THE COURT: Overruled.

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Neal - cross

1 A. Yes. I believe I stated that and the reason why.

2 Q. Looking at two pages over from that page, did you get a
3 chance to read that page over?

4 A. I am looking at it.

5 Q. Tell me when you are done looking at it.

6 Did you get a chance to read it?

7 A. Yeah.

8 Q. Looking at the section where it says -- I am sorry -- HPI.

9 A. Uh-huh.

10 Q. Do you see where it says, 43-year-old present with NYPD
11 custody with forehead laceration; patient states that he got
12 hit with a broken bottle; denies LOC, headache, nausea, visual
13 changes; denies other injury?

14 Do you see that?

15 A. I see that.

16 Q. Isn't it a fact that you were actually asked at the
17 hospital whether you had any other injuries and you stated, no?

18 A. Yes. And I am going to state again I wanted to get out of
19 there to get through the system.

20 Q. It takes about five seconds to say, Yes, I do have other
21 injuries, doesn't it?

22 A. Yes. And then you stay longer.

23 Q. So it is your claim that you didn't say yes because it
24 would have taken too long to say yes?

25 MR. DOGRAMACI: Objection.

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Neal - cross

1 THE COURT: Overruled.

2 A. Because I did not want to stay in the system long. I
3 wanted to get through the court system. That was my main
4 concern. My main concern was getting back out to the street.

5 Q. You told them about the head injury, didn't you?

6 A. They seen the head injury.

7 Q. Well, it was actually your complaint, wasn't it? We looked
8 at that part before. Your chief complaint was that you had a
9 head injury, wasn't it?

10 A. If it was up to me, I wouldn't have went to the hospital.

11 Q. They took you to the hospital to get medical treatment?

12 A. When they initially came in and told me I had to go to the
13 hospital, I didn't want to go. I didn't want to go. On my own
14 free will when they asked me, I did want to go. They was,
15 like, come with me. I was like, No, I don't want to go. I
16 don't want to go with you. He said, You need medical
17 attention. I don't want medical attention. I am fine. I
18 didn't want to go to the hospital. They took me to the
19 hospital.

20 Q. Yet your chief complaint at the hospital still to the
21 hospital was your head injury, wasn't it?

22 A. I did not complain.

23 MR. DOGRAMACI: Objection.

24 THE COURT: Overruled.

25 Q. Because in fact you told them how you got the head injury,

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Neal - cross

1 didn't you? You stated to them, and it says here, hit with a
2 broken bottle.

3 How would they have gotten the information if not by
4 you?

5 A. By asking me.

6 Q. They asked you and you told them?

7 A. I got hit in the head with a bottle.

8 Q. You did talk to them about what happened that night?

9 A. They asked me a question and I told them I got hit in the
10 head with the bottle. That is why every line I state hit in
11 the head with the bottle. Hit in the had with a bottle. I was
12 hit in head with a bottle. Let me get out of here.

13 Q. So it wasn't like the situation you talked about before
14 where you got there and started telling everyone, I don't want
15 treatment. You did tell them about the head injury and you
16 told them about what caused it; right?

17 A. Yes. He asked me.

18 Q. And you told him?

19 A. Yes.

20 Q. But when they asked you if you had any other injuries --

21 A. No. Because I am not trying to stay there long. Let's go.
22 That's my answer. Let's go. In, out. Let's go. Just like I
23 thought I was ROR, released on my own recognizance.

24 Q. Looking down at the physical exam part of the page down on
25 the bottom --

IAA6NEA1

Neal - cross

1 A. Uh-huh.

2 Q. -- do you see where it states, EMS bandage in place?

3 A. I am following you.

4 Q. Yes?

5 A. It says -- you talking about --

6 Q. I am pointing to the screen if you can look at it.

7 It says, EMS bandage in place. Do you see that?

8 A. Uh-huh. It says, Comment: Patient refuses further --
9 what?

10 Q. We'll get to that. I am asking you do you see where it
11 says, EMS bandage in place?

12 A. Yeah.

13 Q. Does that refresh your recollection about whether you were
14 brought to the hospital in an ambulance?

15 A. Yeah. EMS is emergency services.

16 Q. So you were brought to the hospital in an ambulance,
17 weren't you?

18 A. Yes.

19 Q. Sticking to this page for a second, this portion of the
20 medical records where it says, Physical exam, that is a
21 notation that the medical staff made about the physical exam
22 that they did on you, isn't it?

23 A. I don't know. You would have to ask someone in the medical
24 field about that.

25 Q. Well, right here it says, Cranial nerves normal as tested;

IAA6NEA1

Neal - cross

1 right?

2 A. Those are basic vitalies (sic).

3 Q. I am sorry?

4 A. Those are basic. Whenever you go to the hospital, they do
5 a basic check on you.

6 Q. They did do a check on you?

7 A. Your pulse, your heart rate. All of that.

8 Q. They noted that they did a cranial nerve test; isn't that
9 correct?

10 A. I don't know what that is.

11 Q. That is what it says on the medical record?

12 A. That is what it says here.

13 Q. Okay. Let's turn to page 616. Let me know when you have
14 had a chance to look at the page.

15 A. I have it.

16 Q. Do you see where it says, Disposition?

17 A. Yeah.

18 Q. Do you see where it says, Left against medical advice?

19 A. Yes.

20 Q. Yes?

21 A. Yes, I see.

22 Q. That means you left against what the doctors were telling
23 you; right?

24 A. Yes.

25 Q. Then do you see where it says, AMA reason?

IAA6NEA1

Neal - cross

1 A. Yes.

2 Q. You see where it says, I just want to leave. I don't need
3 treatment. I am fine?

4 A. Yes.

5 Q. So you told them that you were fine; right?

6 A. Yes.

7 Q. Okay. That was despite the fact that you claim that just
8 20 minutes prior you had been hit repeatedly?

9 A. Yes.

10 Q. Despite the fact that you claim you were Tased repeatedly
11 only a couple minutes prior to this; right?

12 A. Yes.

13 Q. That was despite the fact that you were claim that you as
14 you stated on direct examination, Every step I took I was in
15 pain; right?

16 A. Yes.

17 Q. You stated on direct examination, Every time I had to go
18 somewhere, I was in pain; right?

19 A. Yes.

20 Q. So besides all of that, you told the doctors at the
21 hospital, I am fine; right?

22 A. Yes.

23 Q. I am showing you the last two page -- well, the second to
24 last page of this document. Let me know when you have had a
25 chance to finish reading and you can go over to the next page

IAA6NEA1

Neal - cross

1 if you want.

2 Are you finished?

3 A. Is who finished? I am waiting on you.

4 Q. I thought you were looking it over. I apologize.

5 Do you see where it says in the comment section,
6 Presumptive diagnosis?

7 A. Yes.

8 Q. Actually, I am sorry. Going back to the full page, what
9 does the top of this page say? Do you see where it says,
10 Voluntary hospital EMS provider, New York City 911 system
11 provider?

12 A. Yes.

13 Q. Do you see that?

14 A. It says NYC.

15 Q. I apologize. NYC medical provider.

16 Do you see here -- this is your name, Neal
17 Christopher; right?

18 A. Yes.

19 Q. This is the report that was generated from your treatment
20 by the EMS workers; right?

21 A. Yes. I have to say.

22 Q. So presumptive diagnosis -- some of the stuff I will not
23 know how to read, but I will read the stuff that we can read
24 along with each other.

25 Soft tissue injury. Skipping to ambulatory on scene

IAA6NEA1

Neal - cross

1 NYPD custody. Patient CC: I was hit in the head with a
2 bottle. Patient states his stepdaughter hit him in the head.
3 See, a bottle. 7 CM deep LAC to head. Negative LOC. Denies
4 head, neck and back pain.

5 Do you see where it says, Denies head, neck and back
6 pain?

7 MR. DOGRAMACI: Objection, your Honor. That is close
8 to what it says.

9 Q. DNS test neck and back pain; right?

10 A. Yes, I see it.

11 Q. DNS means denies; right?

12 A. I don't know what that stands for.

13 Q. Patient was Tasered.

14 Do you see that?

15 A. I see PT was Tased.

16 Q. That is referring to you; isn't it?

17 A. I guess. I don't know. I didn't write this report. I
18 don't know what is going on in there and what it is referring
19 to.

20 Q. You are the one that claims you were Tasered that night;
21 right?

22 A. I was Tasered.

23 Q. So you were the one Tasered that night; right?

24 A. Yes.

25 Q. This medical record has your name on it, Mr. Christopher

IAA6NEA1

Neal - cross

1 Neal?

2 A. Yes.

3 Q. That is your date of birth -- your year of birth?

4 A. Yes.

5 Q. So this document down here is referring to you, isn't it?

6 A. I guess.

7 Q. Well, it says they are talking about the diagnosis of the
8 patient. The patient is you; right?

9 A. Yes.

10 Q. So this area here is talking about your diagnosis; isn't
11 it?

12 A. I guess, yes.

13 Q. So after it says, PT was Tasered it says, DNS further
14 symptoms injuries.

15 Do you see that?

16 A. I can't see it too good because --

17 Q. You have the paper in front of you, a copy.

18 Do you want to take a look at it?

19 A. This screen is actually better than this -- than the paper.

20 THE COURT: Can you point to where you want him to
21 look?

22 MS. DECASTRO: Yes.

23 THE COURT: Thank you.

24 A. Yes, I see.

25 Q. You see where it says, DNS further symptoms injuries?

IAA6NEA1

Neal - cross

1 A. Yes.

2 Q. It states that immediately after it talks about you being
3 Tasered; right?

4 A. Yes.

5 Q. So in fact you denied that you had any injuries related to
6 that Taser, isn't that a fact?

7 A. I wouldn't say that, no.

8 Q. You would not say that?

9 A. No.

10 Q. This is -- you saw the EMTs how long after your arrest?

11 A. You talking about the ambulance?

12 Q. The ambulance.

13 A. I told you before I don't know the time frame. All I know
14 I was taken downstairs. Stood right there. And then I -- I
15 said I was put in a van. Remember, I didn't say I was put in
16 an ambulance. I said I was put in a van. I didn't know, but
17 now we know it was an ambulance I was put in. I was put in the
18 ambulance.

19 Q. Okay. Let me show you on the next page.

20 A. Yes.

21 Q. We'll go back to that, but let me show you this here.

22 See where it says, 0214?

23 A. All right.

24 Q. What does it say immediately on top of that?

25 A. On top of where it says 0214?

IAA6NEA1

Neal - cross

1 Q. Yes.

2 A. It says, 0330.

3 Q. Sorry. The little words at the top. Doesn't that say, On
4 scene?

5 A. I can't see that.

6 Q. You cannot see that?

7 A. No.

8 Q. Let's zoom in.

9 Can you see it now?

10 A. Yeah. I can see it now.

11 Q. That means that the ambulance was on scene at 0214; right?

12 A. I guess. It says on scene.

13 Q. And then do you see where it states right here to the right
14 of that 0228?

15 A. Yes.

16 Q. What does that say?

17 A. I know -- I can make out the LE, but I would have to say
18 that is left scene.

19 Q. That means left scene; right?

20 A. Yes.

21 Q. So that means that you were treated with the EMS workers on
22 scene from 0214 to 0228; right? That is before you left the
23 scene; right?

24 A. Yes.

25 MR. DOGRAMACI: Objection.

IAA6NEA1

Neal - cross

1 THE COURT: Overruled.

2 Q. Right? That is what that means?

3 A. Yeah. They were wrapping my head.

4 Q. So that is on scene.

5 Then after that when you left scene is when you went
6 to the hospital; right?

7 A. Yes. They drove us to the hospital.

8 Q. Going back to the Lincoln medical records -- or do you
9 remember when we looked at the medical records and it says you
10 were admitted at to 0238?

11 A. Yes.

12 Q. You were also with the EMS workers from 0214 to 0238;
13 right?

14 A. I would have to say yes. I would have to say I was with
15 them from 008 to 028. Because once they drop you off in the
16 hospital, the medical staff takes over.

17 Q. You said 0208?

18 A. That is what it says over here, 0208.

19 Q. So you are saying now --

20 A. It should have been 0214. Excuse me.

21 Q. So you were there 0214 to 0238?

22 A. It says 0228.

23 Q. This is when you left the your house; right?

24 A. Uh-huh.

25 Q. Then you got to the hospital at -- let me show you, 0238?

IAA6NEA1

Neal - cross

1 A. Yeah.

2 Q. So you were with them for a little bit of time; right?

3 A. Yes.

4 Q. You were them and you were discussing what had happened to
5 you; right?

6 A. I wouldn't say that I was discussing with them. They were
7 wrapping my head. They asked me questions on what happened. I
8 told them I was hit in the head with a bottle. He started
9 wrapping my head.

10 Q. Is it your claim now that you actually told the EMS workers
11 about the pain that you suffered?

12 A. I told them I was hit in the head with a bottle.

13 Q. Did you tell them about the fact that you had holes up and
14 down your back?

15 A. I didn't know I had holes up and down my back. I didn't
16 know I had holes up and down my back.

17 Q. You felt those holes, didn't you?

18 A. I didn't -- I can't say I didn't feel them. I know I was
19 in pain. I know that much.

20 Q. You know you were in pain?

21 A. And I was agitated. I was in pain and agitated and I just
22 wanted to get out. I wanted to just get it out.

23 Q. They actually asked you whether you about whether you
24 suffered any injuries related to the Taser and you said no?

25 A. No.

IAA6NEA1

Neal - cross

1 Q. Right?

2 A. Yes.

3 Q. You also didn't tell them about this claim that you had
4 that you were hit with a baton multiple times; right?

5 A. Yes.

6 Q. Yes, you did not tell them; right?

7 A. Yes, I did not tell them.

8 Q. Now, let's go to the last page.

9 Do you see at the bottom of that page where I am
10 pointing to on the screen?

11 A. Yes.

12 Q. Do you see where it says, Pain DNS?

13 A. Yes.

14 Q. That means that you denied that you were in any pain when
15 the ambulance workers asked you; right?

16 MR. DOGRAMACI: Objection.

17 THE COURT: Sustained.

18 Q. Isn't it a fact that you told the ambulance workers that
19 you were not in pain?

20 A. I can't recall.

21 Q. You cannot recall whether you said, No, I am not in pain to
22 them?

23 A. No.

24 Q. Well, if you were in so much pain, wouldn't that be
25 something that you would tell a medical professional about?

IAA6NEA1

Neal - cross

1 A. No. I am in pain now, but you wouldn't know it.

2 Q. When you are in front of a medical professional and they
3 are asking you if you are in pain, wouldn't it be smart to say
4 you are in pain so you could get medical treatment?

5 A. It would be smart to let them know you are in pain. Yes,
6 it would.

7 Q. Now, you claim that you declined medical treatment because
8 you wanted to get out of central booking quickly; that is your
9 argument?

10 A. Yes.

11 Q. But you were released the next day, right, after this
12 happened to you?

13 A. I was released that morning.

14 Q. That morning.

15 You didn't go to the hospital of your release, did
16 you?

17 A. No.

18 Q. You could have gone to the hospital; isn't that a fact?

19 A. No.

20 Q. Could not have gone to the hospital?

21 A. No.

22 Q. Why not?

23 A. Because I had other priorities. While in central booking--

24 MS. DECASTRO: Your Honor, at this point -- he is
25 going to get into -- can we have a side bar discussion?

IAA6NEA1

Neal - cross

(Continued on next page)

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IAA6NEA1

Neal - cross

1 (At the side bar)

2 MS. DECASTRO: He just said he was innocent bringing
3 up the lawfulness of the arrest and also he is about to start
4 talking about the thing we talked about yesterday where he
5 claimed he was robbed. He is trying to back-door that in, too.

6 MR. DOGRAMACI: I didn't hear it.

7 THE COURT: Could you please, Jennifer, read me his
8 last answer?

9 If anyone wants to use the rest room or stretch, feel
10 free to do so.

11 (Record read)

12 MS. DECASTRO: We both heard it, but he is about to
13 start talking about the fact when in central booking he claims
14 he was robbed of his possessions and that opens the door about
15 the order of protection and how he violated the next day. That
16 is something we were looking to get into.

17 THE COURT: Don't you go there.

18 MS. DECASTRO: I just wanted to cut him off before he
19 did it.

20 THE COURT: So why don't we move onto something
21 different. Does that make sense?

22 MR. DOGRAMACI: Yeah.

23 (Continued on next page)

IAA6NEA1

Neal - cross

1 (Recess)

2 (In open court; jury present)

3 THE COURT: Whatever you are ready.

4 BY MS. DECASTRO:

5 Q. If you had gone to the hospital after your release, all
6 these injuries that you claim would have been noted somewhere,
7 wouldn't they?

8 A. I guess, yes.

9 MR. DOGRAMACI: Objection.

10 THE COURT: Sustained.

11 MS. DECASTRO: One moment, your Honor?

12 THE COURT: Yes.

13 (Pause)

14 MS. DECASTRO: The only medical treatment that you
15 claim you received was from a home attendant; right?

16 A. Yes. Jacquelyn Sistrunk, S-i-s-t-r-u-n-k.

17 Q. At the time that you saw her, you had already noticed those
18 holes that you claim to have had up and down your back; right?

19 MR. DOGRAMACI: Objection, mischaracterizes.

20 THE COURT: Overruled.

21 A. Yes.

22 Q. So after that point is when you went to go see her; right?

23 A. I wouldn't -- I went to go see her to get a coat because I
24 had no property where I was at and get some money from her.
25 That is my deceased son's mother.

IAA6NEA1

Neal - cross

1 MS. DECASTRO: Your Honor --

2 THE COURT: Why don't you move on.

3 Q. So you didn't get any treatment from this medical attendant
4 from the multiple Taser prongs that you claim to have lodged in
5 your back; right?

6 A. I didn't what?

7 Q. Get any medical attention from this home attendant for the
8 multiple holes you had lodged -- multiple holes you claim to
9 have had in your back?

10 A. As I testified she gave me pain pills. She fixed the cut
11 on my head. That is the only attention I got was pain pills.
12 She brought my Tylenol 3.

13 Q. She did not treat you for those holes that you claim you
14 had in your back; isn't that a fact?

15 A. She gave my Tylenol 3.

16 Q. You did not show her those holes that you claim that you
17 had down your back; right?

18 A. No. The only person who saw the holes was Tamba.

19 Q. She did not put any aloe vera in those holes; right?

20 A. No.

21 Q. She did put aloe vera to the open laceration you had to
22 your head; right?

23 A. Yes. It made no sense to put -- like, holes, you make it
24 seem like holes. No, it was like -- you get hit with Taser or
25 something, it is not a hole. Like, a big hole. It is like an

IAA6NEA1

Neal - cross

1 indentation.

2 Q. In fact, the only complaint you made to her about the
3 interaction you had with my clients was that you were sore;
4 isn't that a fact?

5 A. I told her I was in pain and I was sore.

6 Q. You also didn't take any pictures of those supposed
7 multiple holes you had down your back; right?

8 A. No. I couldn't take any pictures because prior to that me
9 getting out, the reason why I didn't go to the hospital is I
10 had to go home because my eldest daughter, Qwadaisha Archer and
11 Kianna Barnes were in the apartment I was staying in and took
12 my phone.

13 MS. DECASTRO: Your Honor --

14 Q. You could not take pictures because why? You didn't have a
15 camera?

16 A. I didn't have a phone.

17 Q. Isn't it a fact that you actually took your stepson's phone
18 after the --

19 MR. DOGRAMACI: Objection. Objection. Objection,
20 your Honor.

21 THE COURT: I will allow it. Just as to the phone.

22 Q. You had a phone after the incident; right? Immediately
23 after actually?

24 A. Not immediately.

25 Q. You had it the next day, didn't you?

IAA6NEA1

Neal - cross

1 A. Yes.

2 Q. You could have taken pictures with that phone; right?

3 A. Could have, but I wasn't thinking about that. I was
4 thinking about taking this medication and finding somewhere to
5 stay now and to get my clothes.

6 Q. You did not take any pictures, right, even though you
7 could?

8 A. No. No, I didn't take any pictures.

9 Q. You claim that the emotional injuries that you are still
10 dealing with is that you are reluctant to go back to the area
11 where this happened; right?

12 A. I wouldn't say reluctant to go back to the area because I
13 still have family over there in that area.

14 Q. Let me direct you to your deposition testimony at page 146,
15 lines 14 to 22.

16 A. What pages?

17 Q. Page 146, lines 13 to 22.

18 MR. DOGRAMACI: No objection, your Honor.

19 THE COURT: All right.

20 Q. Were you asked these questions and did you give these
21 answers at your deposition:

22 "Q. Did you suffer any psychological injuries as a result this
23 incident?

24 "A. Well, I am reluctant to even go back in that area ever
25 again. I don't want to be around there. Like, that precinct."

IAA6NEA1

Neal - cross

1 Were you asked those questions and did you give those
2 answers?

3 A. Yes.

4 Q. So you were reluctant to go back to that area; right?

5 A. When you say "go back," I pass through there; but to go
6 back and hang out like I used to, no.

7 Q. Those were your --

8 A. I don't hang out in that area.

9 Q. Those were your words you used at the deposition?

10 MR. DOGRAMACI: Your Honor, for context I thought we
11 were going to read through line 22. If we can have the whole
12 thing read --

13 THE COURT: Do you have an objection to reading to
14 line 22?

15 MS. DECASTRO: No objection.

16 Q. So:

17 "Q. Did you suffer any psychological injuries as a result of
18 this incident?

19 "A. Well, I am reluctant to even go back in that area ever
20 again. I don't want to be around there. Like, that precinct.
21 For some reason it feels like I feel like it is a witch hunt so
22 I don't even go back because my wife lives in that area now,
23 but hopefully I am divorced and I don't have to go in that
24 area. I don't want to be nowhere near them -- nowhere near
25 them officers. I don't want to be placed in that predicament

IAA6NEA1

Neal - cross

1 again."

2 Were you asked those questions and did you give those
3 answers?

4 A. Yes, I did.

5 Q. Those were your words that you were reluctant to go back to
6 that area; isn't that a fact?

7 A. Yes.

8 Q. That is because according to you you are afraid of police;
9 right?

10 A. I said I am reluctant to be around them and, yes, they do
11 scare me.

12 Q. In fact, you're a cautious man now; right?

13 A. Yes. When I go around them, yes, I am.

14 Q. Yet that caution of having interaction with police and with
15 anyone in uniform in fact didn't stop you from committing a
16 crime, a felony, in 2013; right?

17 MR. DOGRAMACI: Objection.

18 THE COURT: Overruled.

19 A. Well --

20 Q. Did it or did it not stop you?

21 THE COURT: Did you mean 2015?

22 MS. DECASTRO: The arrest was in 2013.

23 THE COURT: Okay.

24 MR. DOGRAMACI: Your Honor, if I could be heard?

25 THE COURT: Okay.

IAA6NEA1

Neal - cross

(Continued on next page)

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IAA6NEA1

Neal - cross

1 (At the side bar)

2 THE COURT: Tell me what your question was again.

3 MS. DECASTRO: He is saying his psychological injuries
4 are related to the fact that he is afraid of police now. My
5 question was: Isn't it a fact that that injury didn't stop you
6 from committing a crime in 2013, a felony. The crime was
7 committed in 2013. The conviction was in 2015.

8 MR. DOGRAMACI: The conviction was allowed for the
9 limited purpose of going to his truthfulness, his credibility
10 as a witness, whether someone who had committed a crime or
11 someone would tell the truth on the stand. The jury should be
12 give a limited instruction that is the only reason it is
13 allowed to consider it.

14 THE COURT: He testified that he is so traumatized by
15 this event that he is not going to do anything to get near
16 police again. I think he had similar testimony yesterday where
17 he talked about being on the straight and narrow and being so
18 careful because he is so scared of police. I think it is fair
19 to ask that question and I don't think it is unduly prejudicial
20 because the convictions are already in evidence. It has
21 already been tossed about. I don't think there is any real
22 harm.

23 MR. DOGRAMACI: Can we put some boundaries about how
24 much detail?

25 THE COURT: Yes. There is no need to go into any more

IAA6NEA1

Neal - cross

1 detail than there already is about it. There is no need to get
2 into the specifics of the type of drugs or anything.

3 MS. DECASTRO: I wasn't trying to get into that. If
4 he denies he committed the crime, I was going to go into the
5 question about the plea allocution. You sat in front of a
6 judge and you --

7 THE COURT: He admitted that.

8 MS. DECASTRO: If he denies it. Only if he denies it.

9 MR. DOGRAMACI: There is no reason to ask him whether
10 he actually committed the crime.

11 MS. DECASTRO: Not committed a crime, that he plead
12 guilty in a courtroom. That would be perjury if he says now --

13 THE COURT: If he really says he didn't commit it
14 after he admitted it yesterday, I would be surprised.

15 MS. DECASTRO: Only if he says that.

16 THE COURT: The point as I understand it is that if he
17 is saying he is so scared of police, nonetheless he engaged in
18 criminal activity; isn't that right? And you engaged in
19 criminal activity and there is a likelihood of being arrested
20 by police. You don't need to go anywhere beyond that line of
21 questioning. You don't have to use my words. That is the
22 idea.

23 MS. DECASTRO: If he opens the door to say I didn't
24 commit that crime, it goes directly to his credibility.

25 THE COURT: If in fact he does do that, you can

IAA6NEA1

Neal - cross

1 cross-examine him but I don't think so.

2 MR. DOGRAMACI: For him to be asked did you commit
3 that crime, there is no reason for that question.

4 MS. DECASTRO: I am not going to ask him. I am going
5 did you commit a crime that led you to be -- sorry. I can
6 craft the question that it is.

7 (Continued on next page)

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IAA6NEA1

Neal - cross

1 (In open court; jury present)

2 BY MS. DECASTRO:

3 Q. Despite your fear of any interaction with police, you
4 committed a crime; right?

5 A. Yes.

6 Q. Committed a crime that you knew could lead to an
7 interaction with police; right?

8 A. Well, is that a yes or no?

9 THE COURT: Yes. If you commit a crime are you likely
10 to be arrested by the police as a result?

11 THE WITNESS: Yes.

12 A. Yes. Nobody is expecting --

13 Q. I can't hear you?

14 A. When you are doing wrong, nobody -- you are not expecting
15 any court.

16 Q. Right.

17 A. It is a possibility. It is always a possibility, but you
18 are not expecting any court.

19 Q. So you are not actually a cautious man then; right?

20 A. Well, I am. Now I am. I am very cautious. I don't do
21 anything wrong anymore.

22 Q. You testified on direct examination that you are still
23 suffering from back pain even today; right?

24 A. Yes. My back hurts now, which you would never know.

25 Q. You have testified on direct examination also that you had

IAA6NEA1

Neal - cross

1 previously injured your back; right?

2 A. Yes.

3 Q. In fact, prior to the incident that is at question here,
4 you were receiving medical treatment for your back; right?

5 A. I haven't -- I hadn't received medical treatment for my
6 back I think in like a year -- a year or two.

7 Q. Your testimony is that you had not received treatment to
8 for your back --

9 A. About a year.

10 Q. -- in a year prior to the incident?

11 A. I believe so. I am not too sure about that.

12 Q. Isn't it a fact that you were actually being treated by Dr.
13 Alla only a couple of months prior to this incident for your
14 back injury?

15 A. I wouldn't say a couple months. I might have seen him,
16 like, whenever my back got stiff. I might have went to see him
17 to get some pain med, but to see him -- I mean, I was mainly
18 going about my knee -- my left knee. I may have told them I
19 was being seen about my knee about the year my back tightened
20 up. Like I said before, when the weather changes, my back
21 starts -- my back starts to -- starts to hurt. My lower back.

22 Q. You said you were also seeing him for left knee pain;
23 right?

24 A. Right.

25 Q. And he was your doctor at the time; right?

IAA6NEA1

Neal - cross

1 A. Yes.

2 Q. You actually went to see him a couple of times prior to the
3 date of incident; right? A couple times -- in the year from
4 January to November of 2012 you saw him more than four times;
5 right?

6 A. I wouldn't -- approximate number I wouldn't know.

7 Q. But you saw him a couple of times in that time period;
8 right?

9 A. I would have to say yes.

10 MS. DECASTRO: Your Honor, at this time I move Dr.
11 Alla's medical records. They are certified medical records.
12 They are previously marked for identification as Defendant's
13 Exhibit C.

14 MR. DOGRAMACI: No objection.

15 THE COURT: C will be admitted.

16 (Defendant's Exhibit C received in evidence)

17 BY MS. DECASTRO:

18 Q. Do you want a copy of this? A physical copy?

19 Yes or no? I am sorry. I cannot hear you.

20 MR. DOGRAMACI: We would ask that the witness be
21 provided a copy.

22 THE COURT: If you want a paper copy, let us know.

23 BY MS. DECASTRO:

24 Q. Mr. Neal, I am handing you what is in evidence as Exhibit
25 C.

IAA6NEA1

Neal - cross

- 1 A. Thank you.
- 2 Q. When you get a chance to look at it, let me know?
- 3 A. I cannot see that, but I can see this on the screen.
- 4 Q. You cannot see the hand copy I just gave you?
- 5 A. No. It is too small.
- 6 Q. I can zoom it in for you.
- 7 A. The font is real small.
- 8 That's good.
- 9 Q. Do you see at the top right corner where it says, Neal
- 10 Christopher?
- 11 A. Yes.
- 12 Q. Do you see a doctor's name noted there?
- 13 A. Yes.
- 14 Q. That is Dr. Vijay K. Alla.
- 15 A. Yes. Pronounced Vijay.
- 16 Q. Vijay K. Alla?
- 17 A. Yes.
- 18 Q. That is the doctor that you were seeing immediately prior
- 19 to this incident; right?
- 20 A. Immediately prior to the incident.
- 21 Q. This was your doctor?
- 22 A. Yes. I seen him in January -- in January that year.
- 23 Q. It is your testimony you hadn't seen him since January of
- 24 2012?
- 25 A. Well, he is not my doctor anymore.

IAA6NEA1

Neal - cross

1 Q. I am talking about in 2012. Was he your doctor?

2 A. Yes.

3 Q. Let's turn to the last -- second to last page on the
4 document.

5 What is the date on that page?

6 A. It's -- looks like 11-12-2012.

7 Q. That was how many days prior to this incident? How many
8 days prior to this incident was that?

9 A. I would have to see the date of the incident.

10 Q. You don't remember what the date of the incident is now?

11 A. No.

12 Q. If I told you it was November 23rd of 2012, would that
13 refresh your recollection?

14 A. Yes.

15 Q. That was how many days prior to November 23rd of 2012?

16 A. What's that? 11 days. Almost two weeks.

17 Q. I am sorry. How many days? 11 days; is that right?

18 A. Yes.

19 Q. So you went to go see Dr. Alla a mere 11 days prior to this
20 incident; right?

21 A. Yes.

22 Q. This is a doctor that we discussed before had been treating
23 you for your back; isn't that a fact?

24 A. He treated me, period. Not only for my back. For my knee,
25 my toes, my elbow.

IAA6NEA1

Neal - cross

1 Q. Mr. Neal, let's turn to the page where it is Bates stamped
2 at the bottom 267.

3 Do you see that? Do you see what the treatment date
4 there is?

5 A. 4-19-2012.

6 Q. Do you see the section where it says, History of present
7 illness?

8 A. Yes. It is across from where it says, Past medical
9 history.

10 Q. So your past medical history says back pain?

11 A. Uh-huh.

12 Q. Meaning that you had gone to see him before for back pain?

13 A. Yeah. And cough.

14 Q. And cough; right?

15 A. Uh-huh.

16 Q. That was prior to this date, the 4-19-2012 date; right?

17 A. Yes.

18 Q. Do you see here this is where you're noting -- they are
19 noting about what you were there for; right? You were
20 complaining that you had pain at the lower back pain, which is
21 sharp in nature and slightly radiating to both legs and is of
22 eight to 10 in severity.

23 Do you see that?

24 A. Uh-huh.

25 Q. So to this doctor you told him how much pain you were in;

IAA6NEA1

Neal - cross

1 right?

2 A. Yes.

3 Q. So you went to him on 4-10 of 2012 -- I mean 4-19-2012 for
4 than and you also went to him again for back pain after that;
5 right?

6 A. That is not the only thing I went to him for.

7 Q. You also went to him for back pain after?

8 A. There was a whole bunch of pain. My toe also stated in
9 there.

10 MS. DECASTRO: One moment, your Honor.

11 THE COURT: Sure.

12 (Pause)

13 Q. Yet after this incident where you were released the same
14 day on November 23rd of 2012, you never saw Dr. Alla about the
15 back pain that you complain you suffered because of my clients;
16 right?

17 A. Yes.

18 Q. You did not see Dr. Alla; right?

19 You did not go to him and say, I have back pain?

20 A. Yes. Like I stated before there were other mitigating
21 circumstances that had me -- that had me addressing
22 immediately. Like my clothes.

23 Q. By immediately I am talking in the weeks after you did not
24 see him?

25 A. No.

IAA6NEA1

Neal - cross

1 Q. In the years after, you did not see him?

2 A. No. I was homeless. I had to go into the shelter.

3 Q. You did not --

4 A. No.

5 Q. But you did not -- not only did you not see him, you also
6 did not see anyone else; right?

7 A. No.

8 Q. Okay. But today sitting here you are claiming literally
9 six years later that you are still experiencing that back pain,
10 aren't you?

11 A. I still have back pain, ma'am. I am sitting here with back
12 pain.

13 Q. Okay. Let's go back to the Lincoln Hospital medical
14 records, Defendant's Exhibit A. Do you still have that in
15 front of you?

16 Go to page 6 of that document.

17 A. It's not numbered.

18 Q. You can turn to the page to page 6, please.

19 Did you find page 6?

20 A. This. I have it.

21 Q. This part here where it says, Pain score. Do you see how
22 it says, No pain present?

23 A. Yes.

24 Q. You told medical staff that you did not have any pain;
25 isn't that a fact?

IAA6NEA1

Neal - redirect

1 A. Like I stated before, yes, and I was agitated and wanted to
2 get out of there. So I told them whatever was needed for me to
3 get out of there.

4 Q. You did say no pain; right?

5 A. Yes.

6 MS. DECASTRO: No further questions.

7 THE COURT: Redirect.

8 MR. DOGRAMACI: Just a little bit, your Honor.

9 REDIRECT EXAMINATION

10 BY MR. DOGRAMACI:

11 Q. Mr. Neal, when you were being examined by defense
12 counsel -- and if you cannot hear me, please just let me know.
13 I know it was a problem yesterday.

14 You were asked by defense counsel about a part of your
15 deposition. It was at page 114, lines 13 through 18 where you
16 answered the question what, if anything, happened after you got
17 Tased, and at that point in the deposition your answer didn't
18 mention getting punched.

19 MR. DOGRAMACI: I would like to read to the witness to
20 point out some other parts of the deposition. I am going to
21 start with page 156, lines 2 to 4 if there is no objection.

22 MS. DECASTRO: There is an objection to question at
23 line 2.

24 MR. DOGRAMACI: Okay. We can start at page 155, line
25 20.

IAA6NEA1

Neal - redirect

1 (Pause)

2 MS. DECASTRO: That's fine.

3 Q. So we're on page 155, line 20. Just let us know if you
4 remember this from your deposition, Mr. Neal.

5 You were asked:

6 "Q. What is the basis of your claim against Officer
7 Garciarivas?"

8 You answered, "He is another one. After I told these
9 officers, like, that I was hit way bottle and it is clearly
10 seen I was hit with a bottle and I wanted this person arrested,
11 nobody arrested them. I am not sure what his action was or
12 where he was at when the other two officers, Rodriguez and
13 Maldonado, when they were grabbing me. They were the officers
14 who hit me, who punched me in the stomach and in the ribs."

15 Do you remember that part of your deposition?

16 A. Yes.

17 Q. And page 120, line 21 to 121, line 12--

18 MS. DECASTRO: What was the lines?

19 MR. DOGRAMACI: From line 21 of page 120 to line 12 of
20 the next page.

21 MS. DECASTRO: That's fine.

22 Q. So I am going to read it, Mr. Neal, and the only question
23 is whether you remember this.

24 You were asked:

25 "Q. I am not talking about the Tasing yet. The question was

IAA6NEA1

Neal - redirect

1 unclear. You said you got hit by multiple officers?

2 "A. Yes.

3 "Q. And you said you were punched specifically; right?

4 "A. Yes. I felt punches.

5 "Q. What part of your body was being punched?

6 "A. My stomach. A couple times it was my ribs.

7 "Q. Anywhere else?

8 "A. I don't know who punched me.

9 "Q. Anywhere else?

10 "A. Ma'am?

11 "Q. Anywhere else?

12 "A. A couple shots to the stomach and ribs.

13 "Q. Did that force cause you pain?

14 "A. Of course it did."

15 Do you remember that?

16 A. Yes.

17 Q. So you did in your deposition testify about being punched;
18 right?

19 A. Yes. Yes, I did.

20 Q. Now, you were asked at length about what happened when you
21 went to Lincoln Hospital immediately after the arrest, and I
22 want to give you an opportunity to explain fully in one shot
23 why it is that you were not examined at that hospital.

24 Would you please just give the explanation of why it
25 is why you went to that hospital you said the things you said

IAA6NEA1

Neal - redirect

1 to the doctors there and you were not examined.

2 A. I didn't -- I was agitated, one. I am bleeding. Hit in
3 the head with a bottle. Mark on me for the rest of my life.
4 Going -- going through the court system, it's a horrible thing.
5 I wouldn't wish that on my worst enemy. You have to sit there
6 for hours. You have people -- you have no privacy to urine or
7 defecate. It smells. You are around other individuals. Some
8 of them have lice. Some of them have bed bugs. You know, it
9 is filthy in there. There are mice running around.

10 So, no, I knew that I had to go through this process.
11 No, I want to get in and I want to get out. I know I didn't do
12 anything wrong. I wanted out of there. I don't want to be
13 sitting in there. It is a filthy, dirty, nasty place.

14 So to expediate (sic) getting out of the hospital, I
15 told them what I was necessary for me for get out of there
16 quick. Was it the right thing to do? No. It was stupid. Was
17 I stewed at that time? Yes, I was. But, like I said, when I
18 got on the phone -- they also have phones there -- and I called
19 Tamba and she told me what she told me that my eldest daughter
20 and --

21 Q. Wait. Wait. Just stick with the reason why --

22 A. That is one of the reasons, though.

23 Q. Okay.

24 MS. DECASTRO: Your Honor, objection.

25 THE COURT: Do you want to move on?

IAA6NEA1

Neal - redirect

1 MR. DOGRAMACI: Okay. Well, if I could ask one more
2 specific question about this.

3 Q. What is the connection between the time you spend in
4 Lincoln Hospital and the time you spend with vermin and bed
5 bugs as just put it?

6 MS. DECASTRO: Objection.

7 THE COURT: Sustained.

8 MR. DOGRAMACI: Your Honor, the witness has never had
9 a chance to explain that connection.

10 MS. DECASTRO: He explained it at length.

11 MR. DOGRAMACI: No, he has not.

12 THE COURT: Let's not argue in front of jury. If you
13 wanted to rephrase the question, go ahead.

14 Q. Why did you believe that by getting out of Lincoln Hospital
15 quickly you would save yourself time with beg bugs and vermin?

16 MS. DECASTRO: This is opening the door. Objection.

17 MR. DOGRAMACI: May I be heard?

18 THE COURT: This is the last side bar of this morning
19 because it is just too many.

20 (Continued on next page)

21

22

23

24

25

IAA6NEA1

Neal - redirect

1 (At the side bar)

2 THE COURT: He just testified at length about the bed
3 bugs and why he wanted to get out and why he didn't want to
4 stay. I don't know what the connection is.

5 MR. DOGRAMACI: That is what I wanted him to say. The
6 later it got at night the more -- to his understanding is that
7 the more people would be lined up in the court system and
8 therefore if he ended up going to court in order to be
9 arraigned or whatever it is later in that morning, he would end
10 up spending more time there because he would end up at the back
11 of line. His belief is he needed to get straight to court
12 immediately before the court got filled up with people getting
13 arrested that night so that he could move through quickly. I
14 was not allowed to bring that out on direct because defendants
15 objected. So my thought was let's see how big a deal they make
16 out of these medical records. They made a huge deal out of it.
17 I should be able to get this explanation from him.

18 THE COURT: First of all, it is appropriate to ask
19 questions about medical records where you are seeking damages.

20 MS. DECASTRO: Your Honor, he is trying to draw
21 sympathy from the jury about central booking. What the jury
22 doesn't know is he has been arrested several times and been to
23 central booking.

24 THE COURT: Look, do you have a problem with Mr.
25 Dogramaci leading a little bit and asking a question does the

IAA6NEA1

Neal - redirect

1 amount of time you spend if you got to central booking sooner,
2 did you think you would be out sooner.

3 MS. DECASTRO: I think it is completely irrelevant and
4 prejudicial.

5 THE COURT: Why?

6 MS. DECASTRO: Because he didn't seek medical
7 treatment even after he got out.

8 THE COURT: I know. Just let him make his point about
9 why he didn't make these -- frankly, I think he has already
10 said it numerous times.

11 I will let you lead and ask one question about the
12 timing. Then if you want to ask about it again, you can. We
13 don't need to get into all this other stuff.

14 MS. DECASTRO: Can we ask about how he knows about
15 central booking?

16 THE COURT: Why?

17 MS. DECASTRO: Because he is painting it to be a
18 horrible experience -- mice, lice. He knows the jury is not
19 going to understand why he knows that.

20 THE COURT: They know he has been arrested. They know
21 he has been in central booking.

22 MS. DECASTRO: They don't know he was arrested prior
23 to this incident.

24 THE COURT: That's too prejudicial.

25 (Continued on next page)

IAA6NEA1

Neal - redirect

1 (In open court; jury present)

2 THE COURT: Go ahead.

3 BY MR. DOGRAMACI:

4 Q. Mr. Neal, your understanding was that during the time that
5 you spent at Lincoln Hospital, more and more people were
6 getting arrested and arriving at central booking and if you had
7 arrived at central booking later that morning, you would have
8 ended up spending in connection with that much more time with
9 the lice and bed bugs --

10 THE COURT: Leave out the lice and bed bugs.

11 Q. You would have spent much more time in detention; correct?

12 A. Yes.

13 THE COURT: Let's move on.

14 Q. You were also asked a lot of questions about as defense
15 counsel repeatedly put it the holes in your back and I want to
16 give you an opportunity to really precisely describe these
17 things that were repeatedly called holes.

18 Was it in fact your skin actually punctured?

19 A. No.

20 Q. So what are these things that have been called holes?

21 A. They are more like -- like I said, indentations. Like
22 something latches on. For instance -- how can I put it? Like a
23 clip or something when you put it on your finger how it leaves
24 a little mark. Take something -- like my ID that I clip this
25 on here, if put it on and latches on your finger and put it off

IAA6NEA1

Neal - recross

1 and you can see the marks on it, it is like that.

2 Q. Okay. You were also on cross asked questions about times
3 before Thanksgiving 2012 when you were treated for back pain.

4 I want to ask you in this lawsuit are you seeking any
5 compensation for any injury that you had before Thanksgiving
6 2012?

7 A. No.

8 MS. DECASTRO: Objection.

9 THE COURT: Overruled.

10 MR. DOGRAMACI: That's all.

11 THE COURT: Any additional questions?

12 MS. DECASTRO: Just two briefly, your Honor.

13 THE COURT: Sure.

14 RECROSS-EXAMINATION

15 BY MS. DECASTRO:

16 Q. Mr. Neal, you are sitting here today claiming that you did
17 not have holes in your back; is that right?

18 A. No.

19 Q. Let's look at your deposition testimony at page 141, lines
20 7 to 9.

21 Were you asked these questions and did you give these
22 answers:

23 "Q. What did you say was sore?

24 "A. I told her my back was hurting. I don't remember if I
25 showed her the Taser holes in my back."

IAA6NEA1

Neal - redirect

1 Were you asked those questions -- asked that question
2 and did you give that answer?

3 A. Yes.

4 Q. So again you're the one that characterized it as a hole not
5 me; right?

6 A. Yes.

7 MS. DECASTRO: Nothing further, your Honor.

8 THE COURT: Thank you.

9 You can step down, Mr. Neal.

10 MR. DOGRAMACI: Well --

11 THE COURT: Did you have an additional question.

12 MR. DOGRAMACI: I want to explain what he meant by
13 that point in his deposition.

14 THE COURT: Go ahead.

15 REDIRECT EXAMINATION

16 BY MR. DOGRAMACI:

17 Q. Mr. Neal, the bit that was just read to you from your
18 deposition where you said, I don't remember if I showed her the
19 Taser holes in my back, what did you mean by those words at
20 that point in your deposition?

21 A. By holes that is what I meant, the indentation. Because it
22 is not like -- like this. It creates like a little
23 indentation. So it is like a little -- to me it is like a
24 little hole. It not actually a hole, but it is indentation.
25 That is what I meant by hole.

IAA6NEA1

Rodriguez - direct

1 Q. You meant the same thing you always meant when you have
2 referred to holes; right?

3 A. Yes.

4 MS. DECASTRO: Objection.

5 THE COURT: Overruled.

6 You can step down. Thank you.

7 (Witness excused)

8 THE COURT: Mr. Dogramaci, you can call your next
9 witness.

10 MR. DOGRAMACI: Plaintiff calls Defendant Rodriguez.

11 THE DEPUTY CLERK: Please raise your right hand.

12 JUAN RODRIGUEZ,

13 called as a witness by the Plaintiff,

14 having been duly sworn, testified as follows:

15 THE DEPUTY CLERK: Please state and spell your name
16 for the record.

17 THE WITNESS: Juan Rodriguez.

18 DIRECT EXAMINATION

19 BY MR. DOGRAMACI:

20 Q. Good morning, Mr. Rodriguez.

21 A. Good morning.

22 Q. On November 23rd, 2012 you responded to 805 156th Street in
23 the Bronx in response to a radio run and 911 call regarding an
24 assault; correct?

25 A. I did.

IAA6NEA1

Rodriguez - cross

1 Q. And on that night Mr. Neal was arrested; correct?

2 A. Yes, sir.

3 Q. And you were in the apartment when Mr. Neal was arrested;
4 correct?

5 A. Yes, I was.

6 Q. You were in uniform acting as a police uniform; correct?

7 A. Yes.

8 Q. You saw the arrest; correct?

9 A. Yes, I did.

10 Q. You saw him get Tased; correct?

11 A. No.

12 MR. DOGRAMACI: No further questions.

13 THE COURT: Cross-examination?

14 MS. DECASTRO: Can we have one moment?

15 THE COURT: Sure.

16 (Pause)

17 CROSS-EXAMINATION

18 BY MS. DECASTRO:

19 Q. Good afternoon, Detective Rodriguez.

20 A. Good afternoon.

21 Q. Can you introduce yourself to the jury, please?

22 A. My name is Juan Rodriguez.

23 Q. By whom are you currently employed?

24 A. NYPD.

25 Q. How long have you been with the New York City Police

IAA6NEA1

Rodriguez - cross

1 Department?

2 A. 12 years.

3 Q. Can you briefly walk us through your assignments with the
4 New York City Police Department?

5 A. I became a police officer in 2007. I was assigned to the
6 40 precinct. After that I was assigned to the 43 precinct
7 detective squad where I am currently assigned as a detective
8 investigator.

9 Q. So you currently are a detective in the 43 squad?

10 A. Yes, I am.

11 Q. Turning your attention to the events that occurred on
12 November 23rd of 2012.

13 Were you working on that day?

14 A. Yes, I was.

15 Q. Where were you working?

16 A. I was currently assigned at that time to the 40 precinct.

17 Q. What area does the 40 precinct cover?

18 A. It covers the Monroe, Patterson, anywhere from 132nd Street
19 all the way to 161st Street.

20 Q. Where in the city is that?

21 A. In the Bronx.

22 Q. What was your rank on that day?

23 A. I was a police officer.

24 Q. What was your assignment on that day?

25 A. I was working as midnight conditions.

IAA6NEA1

Rodriguez - cross

1 Q. What is conditions?

2 A. Well, we try to respond to the heavy jobs -- shootings,
3 slashings, heavy domestic incidents.

4 Q. Were you working with anyone else on that day?

5 A. I was.

6 Q. Who were you working with?

7 A. I was working with Lieutenant Camhi and Officer Garciarivas
8 and also Officer Maldonado, who is not here present right now.

9 Q. Were you working as part of a team with these people?

10 A. Yes, I was.

11 Q. Were you working in uniform on that day?

12 A. Yes.

13 Q. Did there come a time that you responded to 805 East 156th
14 Street in the Bronx?

15 A. Yes, I did.

16 Q. Why did you respond to that location?

17 A. We responded to a domestic incident where allegedly it was
18 a male with a firearm making threats.

19 Q. Did there come a time that you actually arrived to that
20 location?

21 A. Yes.

22 Q. What, if anything, did you observe as you were arriving
23 there?

24 A. Upon arrival at the location before we were able to stop, I
25 observed now what we identified as Mr. Christopher Neal. He

IAA6NEA1

Rodriguez - cross

1 was outside, bleeding from his head. And as soon as he
2 observed the van, he took off running inside the location, 805.

3 Q. Were you able to eventually park your car and get out?

4 A. Yes.

5 Q. What did you do after you got out of your vehicle?

6 A. Once I stepped out of the vehicle, I was approached by a
7 female approximately 18 years old who had a bruise on her lip
8 and who informed me that the guy --

9 MR. DOGRAMACI: Objection. Objection.

10 THE COURT: Overruled.

11 This is just being admitted -- what was said to the
12 detective for the affect that it had on him. It is not being
13 admitted for the truth of the matter.

14 You may proceed.

15 Q. You may continue, Detective.

16 A. I was approached by approximately 18-year-old female, who I
17 remember by the name Kianna Barnes, who stated that
18 Mr. Christopher Neal punched her with a closed fist by her lip
19 and he was make threats with a firearm.

20 Q. Did you do anything after you spoke to this female?

21 A. Yes. Also, she informed me that Mr. Neal was on parole.

22 So then I request for Mr. -- Ms. Barnes to take me to the
23 apartment where Mr. Neal was staying and she directed me to the
24 apartment.

25 Q. What, if anything, did you do once you got to the

IAA6NEA1

Rodriguez - cross

1 apartment?

2 A. I entered the apartment. It was a very long, narrow
3 hallway. And when I entered the location, Lieutenant Camhi was
4 in the kitchen with Mr. Neal trying to make him comply about
5 the reason why we were there at the apartment.

6 Q. What happened after that?

7 A. After talking to him for a couple of minutes, he did not
8 want to comply with us and resisted arrest. He proceeded to
9 push us away, push us around. I mean, he was much bigger than
10 he looks today.

11 Q. When you say he was pushing us around, do you mean you or
12 other officers?

13 A. He was pushing me, he was pushing Lieutenant Camhi, and he
14 was pushing Lieutenant Kaiser.

15 Q. What happened after that?

16 A. Once he -- we were trying to engage him to arrest him. He
17 was retrieving backwards and he was -- he got into this bedroom
18 that was adjacent to the kitchen and a dog -- a pit bull came
19 out of the room that attacked me first. I jumped on top of
20 the -- on top of the stove because I am afraid of dogs. So he
21 bit my right foot and he got a good grip of it. It took a
22 couple of seconds before Officer Garciarivas was able to remove
23 the dog from my leg and then I proceeded to -- once the dog
24 left the kitchen area, I was able to go into the room where --
25 the bedroom where I observed Mr. Neal on the bed facing down

IAA6NEA1

Rodriguez - cross

1 locking his arms under his body and refusing to be rear cuffed
2 by Lieutenant Camhi and Lieutenant Kaiser.

3 Q. So when you ended up in the kitchen, do you know where
4 plaintiff was with the other officers?

5 A. Yeah. He was in the middle of the kitchen.

6 Q. After the -- when you were in the kitchen with the dog, I
7 apologize, where were the other officers? I mean, Lieutenant
8 Kaiser and Lieutenant Camhi?

9 A. Once the dog bit my right foot, they went into the
10 bedroom -- the closest bedroom to the kitchen.

11 Q. What did this dog look like that bit your boot -- I mean
12 bit your foot?

13 A. The bit bull?

14 Q. Yes.

15 A. How he look?

16 Q. Yes.

17 A. He looked big to me.

18 Q. Did you think that any of this was funny?

19 A. No, it wasn't.

20 MR. DOGRAMACI: Objection.

21 THE COURT: Overruled.

22 Q. Did you think any of this was funny?

23 A. No, it wasn't.

24 Q. Did you laugh at any point while you were in that
25 apartment?

IAA6NEA1

Rodriguez - cross

1 A. No, I didn't.

2 Q. You said you helped place plaintiff in handcuffs in the
3 bedroom?

4 A. Yes, I did.

5 Q. At any point did you see anyone strike plaintiff with a
6 baton?

7 MR. DOGRAMACI: Objection.

8 A. No.

9 THE COURT: Overruled.

10 Q. Did you see anyone strike plaintiff with a baton?

11 A. No, I didn't.

12 Q. Did you see anyone punch plaintiff?

13 A. No.

14 Q. Did you ever punch plaintiff?

15 A. No, I didn't.

16 Q. Did you ever see anybody punch plaintiff?

17 A. No.

18 Q. Did you ever Tase plaintiff?

19 A. I wouldn't be able to do it because I don't have the
20 training or never been trained to use a Taser.

21 Q. So you did not have a Taser on you that night; right?

22 A. No.

23 Q. At any point on November 23rd, 2012 did you offer plaintiff
24 medical attention?

25 A. Yes, we did.

IAA6NEA1

Rodriguez - cross

1 Q. Did he -- what happened after plaintiff was handcuffed?

2 A. After Mr. Neal was in handcuffs, we proceeded to take him
3 downstairs where he EMS was already on the scene. They
4 proceeded to treat his wound on his head. And then while we
5 were downstairs, he specifically told me that he wanted to
6 go -- he didn't want any medical attention because he wanted
7 the judge to see him with the injury.

8 Q. What did you take that to mean?

9 MR. DOGRAMACI: Objection.

10 THE COURT: Overruled.

11 You can say what your understanding was.

12 A. To my understanding he wanted the judge to feel some kind
13 of pity for him in regards to the injury.

14 Q. Did you go anywhere after plaintiff's arrest?

15 A. I went to Lincoln Hospital with him.

16 Q. What, if anything, did you do after Lincoln Hospital?

17 A. After Lincoln Hospital I proceeded to go to the 40 precinct
18 to continue the arrest processing.

19 MS. DECASTRO: Your Honor, can I have one moment to
20 confer?

21 THE COURT: Yes.

22 (Pause)

23 MS. DECASTRO: Nothing else, your Honor.

24 THE COURT: Ladies and gentlemen, why don't we take a
25 half hour break that we discussed earlier now. Keep an open

1 mind. Don't discuss the case.

2 I have an unrelated proceeding right now so I am going
3 to stop a few minutes earlier. I will see you in a half hour.

4 Thank you.

5 You can step down. Thank you.

6 (Jury excused)

7 THE COURT: Folks, I have a criminal proceeding right
8 now. You don't have to move everything from your desk, but
9 just clean it up a little bit and keep in mind some other folks
10 are going to sit at the tables for a few moments.

11 Thank you.

12 (Recess)

13 (In open court; jury present)

14 THE COURT: Everyone can be seated.

15 You may proceed.

16 REDIRECT EXAMINATION

17 BY MR. DOGRAMACI:

18 Q. Officer Rodriguez, I want to ask you about when the dog had
19 its mouth on your -- which part of you did it bite?

20 A. Can you repeat the question, please?

21 Q. What part of your body did the dog bite?

22 A. My right foot.

23 Q. How long did it have its mouth on your foot?

24 A. A few seconds.

25 Q. Which of the police officers took the dog off your foot?

IAA6NEAL1A

Rodriguez - redirect

1 A. Officer Garciarivas.

2 Q. How did Officer Garciarivas do that?

3 A. He struck the dog.

4 Q. And then what happened?

5 A. The dog left the kitchen area.

6 Q. The dog did that on its own?

7 A. Yes.

8 Q. Where did the dog go?

9 A. I don't know. Outside the kitchen area.

10 MR. DOGRAMACI: Thank you.

11 THE WITNESS: You're welcome.

12 MS. DECASTRO: Nothing further.

13 THE COURT: You can step down. Thank you.

14 (Witness excused)

15 THE COURT: You can call your next witness.

16 MR. DOGRAMACI: Plaintiff calls Officer Coty Green.

17 THE DEPUTY CLERK: Please raise your right hand.

18 There is water if you want.

19 COTY GREEN,

20 called as a witness by the Plaintiff,

21 having been duly sworn, testified as follows:

22 THE DEPUTY CLERK: You may be seated.

23 Please state your name for the record and spell it

24 THE WITNESS: Coty Green. C-o-t-y, G-r-e-e-n.

25 DIRECT EXAMINATION

IAA6NEAL1A

Green - direct

1 BY MR. DOGRAMACI:

2 Q. Hello, Officer Green.

3 A. Hello.

4 Q. On November 23rd, 2012 you responded to 805 East 156th
5 Street in the Bronx in response to a radio run and 911 call
6 regarding an assault; correct?

7 A. Yes, as a backup.

8 Q. I am sorry?

9 A. Hello. Hello. Can you hear me?

10 Q. I can.

11 A. Yes, as a backup.

12 Q. On that night Mr. Neal was arrested; correct?

13 A. Yes.

14 Q. You were in the apartment when Mr. Neal was arrested;
15 correct?

16 A. Yes.

17 Q. You were in uniform acting as a police officer; correct?

18 A. Yes.

19 Q. You saw the arrest; correct?

20 A. Yes.

21 Q. You saw Mr. Neal get Tased; correct?

22 A. No.

23 MR. DOGRAMACI: No further questions.

24 THE COURT: All right.

25 Cross-examination?

IAA6NEAL1A

Green - cross

1 MS. DECASTRO: One moment, your Honor.

2 THE COURT: Sure.

3 (Pause)

4 CROSS-EXAMINATION

5 BY MR. MANNINGHAM:

6 Q. Good afternoon, Officer Green.

7 A. Good afternoon.

8 Q. You said you were working on November 23rd, 2012; correct?

9 A. Yes.

10 Q. Were you working with anyone?

11 A. Yes?

12 Q. Who?

13 A. Sergeant Wilson. At the time he was a police officer.

14 Q. When you responded to the location, why did you respond?

15 A. We went as a backup to that domestic dispute with a
16 firearm.

17 Q. When you got to the location, what, if anything, did you
18 do?

19 A. Once we got to the location, we got out the car and went
20 upstairs. Once I got into the apartment -- by the apartment,
21 directly in front of me I saw Officer Rodriguez sitting on a
22 counter trying to get away from a dog. The dog then turned
23 around and came towards me and bit me on my right foot. After
24 that I kicked the dog off. I don't know where the dog went
25 after that. I tried to get into the room where they were

IAA6NEAL1A

Green - cross

1 trying to get Mr. Neal in handcuffs. I never made it in.

2 Q. When was the first time you saw Mr. Neal?

3 A. When they were bringing him out in handcuffs.

4 Q. Did you at any point touch Mr. Neal?

5 A. No.

6 Q. Did you see Sergeant Kaiser discharge the Taser?

7 A. No.

8 Q. Did you hear Sergeant Kaiser discharge the Taser?

9 A. No.

10 Q. Did you see anyone hit the plaintiff?

11 A. No.

12 Q. Did you see anyone use a baton or an expandable baton on
13 the plaintiff?

14 A. No.

15 MR. MANNINGHAM: One moment, your Honor.

16 (Pause)

17 BY MR. MANNINGHAM:

18 Q. Did you ever hit Mr. Neal --

19 A. No.

20 Q. -- with a baton?

21 A. No.

22 Q. Did you hit him with anything?

23 MR. DOGRAMACI: Objection to the many leading
24 questions.

25 THE COURT: Overruled.

IAA6NEAL1A

Green - cross

1 You can answer.

2 A. No.

3 Q. Did you use a Taser on Mr. Neal?

4 A. No.

5 Q. Did you have a Taser on that day?

6 A. No. During that time police officers weren't assigned
7 Tasers. They weren't only assigned to bosses.

8 Q. Did you laugh at any point when you were at that location?

9 A. No.

10 Q. Did you think this was funny at all?

11 A. No.

12 Q. Did you ever punch Mr. Neal?

13 A. No.

14 MR. MANNINGHAM: Nothing further.

15 THE COURT: Anything else, Mr. Dogramaci or Mr.
16 Higgins?

17 MR. DOGRAMACI: No, your Honor.

18 THE COURT: You can step down. Thank you.

19 (Witness excused)

20 MR. DOGRAMACI: Your Honor, the plaintiff calls
21 Officer Garciarivas.

22 THE DEPUTY CLERK: Please raise your right hand.

23 BAUDILO GARCIARIVAS,

24 called as a witness by the Plaintiff,

25 having been duly sworn, testified as follows:

IAA6NEAL1A

Garciarivas - direct

1 THE DEPUTY CLERK: Please state and spell your name
2 for the record and move the microphone towards you.

3 THE WITNESS: Baudilio Garciarivas. B-a-u-d-i-l-i-o,
4 G-a-r-c-i-a-r-i-v-a-s.

5 DIRECT EXAMINATION

6 BY MR. DOGRAMACI:

7 Q. Hello, Officer Garciarivas.

8 A. Hello.

9 Q. On November 23rd, 2012, you responded to 805 East 156th
10 Street in the Bronx in response to a radio run and 911 call
11 regarding an assault; correct?

12 A. Yes.

13 Q. On that night Mr. Neal was arrested; correct?

14 A. Yes.

15 Q. You were in the apartment when Mr. Neal was arrested;
16 correct?

17 A. Yes. I was in the apartment, but not in the room where he
18 was arrested.

19 Q. You were in uniform acting as a police officer; correct?

20 A. Correct.

21 Q. Which room were you in?

22 A. I was in the kitchen.

23 Q. You saw the Tasing; correct?

24 A. No.

25 MR. DOGRAMACI: Just one moment, your Honor.

IAA6NEAL1A

Garciarivas - cross

1 (Pause)

2 MR. DOGRAMACI: That's all, your Honor.

3 THE COURT: Thank you.

4 Anything from defense counsel.

5 CROSS-EXAMINATION

6 BY MR. MANNINGHAM:

7 Q. Good afternoon.

8 What was your rank on November 23rd, 2012?

9 A. I was a police officer.

10 Q. You were working that day with Officers Rodriguez and
11 Camhi; correct?

12 A. Correct.

13 Q. When you responded to 805 East 156th Street, what, if
14 anything, did you do?

15 A. I went in front of the building and I saw plaintiff yelling
16 and I went upstairs.

17 Q. When you got upstairs, what, if anything, did you do?

18 A. When I got upstairs at some point I ended up in the kitchen
19 area.

20 Q. When you got to the kitchen, what, if anything, did you do?

21 A. When I got to the kitchen area, I at some point I saw
22 Sergeant Kaiser, Sergeant Camhi and the plaintiff in the
23 hallway area.

24 Q. Why did you go to the kitchen?

25 A. I went to the kitchen area to secure the room just in case

IAA6NEAL1A

Garciarivas - cross

1 there was a weapon that can be used against us.

2 Q. What happened next?

3 A. After that the dog came out straight to Rodriguez.

4 Barking, started biting him. And after that I hit the dog and
5 the dog ran away.

6 Q. What did you hit the dog with?

7 A. I hit the dog with a baton.

8 Q. Why did you do that?

9 A. Just to get him off his foot.

10 Q. Was the dog letting go of the foot?

11 A. No.

12 Q. Did you see Sergeant Kaiser shoot the Taser?

13 A. No.

14 Q. Did you hear Sergeant Kaiser shoot the Taser?

15 A. No.

16 Q. Why not?

17 A. I was in the kitchen area dealing with the dog.

18 Q. You were dealing with the dog when the Taser was --

19 A. Correct.

20 Q. After the dog -- after you hit the dog, what happened next?

21 A. After the dog I remember just being in the hallway and
22 seeing the plaintiff already handcuffed.

23 Q. Did you touch the plaintiff?

24 A. No.

25 Q. Did you help escort him outside?

IAA6NEAL1A

Garciarivas - cross

1 A. No.

2 Q. Was he walking on his own?

3 A. Yes.

4 Q. Did you find this incident funny at all?

5 A. No.

6 Q. Did you laugh at any point while you were at that location?

7 A. No.

8 Q. Did you have a Taser on you on that day?

9 A. No.

10 Q. After you hit the dog, what did the dog do?

11 A. The dog just ran away. I don't know where he went.

12 Q. Did you see anyone use a baton on the plaintiff?

13 A. No.

14 Q. Did you see anyone hit the plaintiff with any object?

15 A. No.

16 Q. Did you see anyone punch the plaintiff?

17 A. No.

18 Q. Did you see anyone kick the plaintiff?

19 A. No.

20 Q. Did you hit the plaintiff at any point?

21 A. No.

22 Q. Did you ever physically touch the plaintiff?

23 A. No.

24 MR. MANNINGHAM: Nothing further, your Honor.

25 THE COURT: Thank you.

IAA6NEAL1A

Garciarivas - redirect

1 REDIRECT EXAMINATION

2 BY MR. DOGRAMACI:

3 Q. Officer Garciarivas, where did you see the dog come from?

4 A. The dog came from a room.

5 Q. From another room?

6 A. Yes.

7 Q. And had the door to that room been closed?

8 A. The door was open.

9 Q. So was the door to that room open the entire time you were
10 in the apartment?

11 A. The door -- when I saw the door -- I mean, when I saw the
12 dog come out, the door was opened. I don't remember seeing the
13 door closed prior to that.

14 Q. Okay.

15 MR. DOGRAMACI: That's all. Thank you.

16 THE COURT: Anything else, Mr. Manningham?

17 MR. MANNINGHAM: Nothing further, your Honor.

18 THE COURT: You can step down. Thank you.

19 (Witness excused)

20 MR. DOGRAMACI: Plaintiff calls Lieutenant Camhi.

21 THE DEPUTY CLERK: Please raise your hand.

22 DAVID CAMHI,

23 called as a witness by the Plaintiff,

24 having been duly sworn, testified as follows:

25 THE DEPUTY CLERK: You may be seated.

IAA6NEAL1A

Camhi - direct

1 Please state and spell your name for the record.

2 THE WITNESS: David Camhi, C-a-m-h-i.

3 DIRECT EXAMINATION

4 BY MR. DOGRAMACI:

5 Q. Sir, is your rank in the police department lieutenant?

6 A. Currently, yes.

7 Q. Thank you.

8 Lieutenant Camhi, on November 23rd, 2012, you
9 responded to 805 East 156th Street in the Bronx in response to
10 a radio run and 911 call regarding an assault; correct?

11 A. Yes. Domestic assault with a firearm.

12 Q. On that night Mr. Neal was arrested; correct?

13 A. Yes.

14 Q. You were in the apartment when Mr. Neal was arrested;
15 correct?

16 A. Yes.

17 Q. You were in uniform acting as a police officer; correct?

18 A. As sergeant, yes.

19 Q. You saw the arrest; correct?

20 A. Yes.

21 Q. You saw the Tasing of Mr. Neal; correct?

22 A. I didn't see the Tasing. I heard the discharge.

23 Q. Okay. Where were you when you heard the discharge?

24 A. In front and to the right side of Mr. Neal.

25 Q. About how far from him were you?

IAA6NEAL1A

Camhi - cross

1 A. He was holding onto me so in arm's length.

2 MR. DOGRAMACI: No further questions.

3 THE COURT: All right.

4 CROSS-EXAMINATION

5 BY MS. DECASTRO:

6 Q. Good afternoon, Lieutenant Camhi.

7 A. Good afternoon.

8 Q. You just stated that you are currently a lieutenant with
9 the New York City Police Department?

10 A. Yes.

11 Q. What precinct do you work out of?

12 A. Bronx narcotics.

13 Q. Can you walk us briefly through your assignments with the
14 New York City Police Department?

15 A. Yes. Upon completion --

16 MR. DOGRAMACI: Objection. Time frame?

17 THE COURT: Can you specify the time frame, please?

18 Q. From the beginning to the end. Well, to now. To now. I
19 am sorry.

20 A. Sure. Upon completion of the academy I was assigned to
21 police service area seven. It covers housing, 40 and 42
22 precincts. Upon completion of my field training there, I was
23 assigned to police service area eight, which covers housing, 43
24 45 and 47 precincts. Upon promotion to sergeant, I was
25 assigned to the 40 precinct. Upon promotion to lieutenant, I

IAA6NEAL1A

Camhi - cross

1 was assigned to the 107 precinct in Queens and then I requested
2 transfer for Bronx narcotics where I am currently assigned.

3 Q. Thank you.

4 I would like to turn your attention to the events that
5 occurred on November 23rd of 2012.

6 Were you working on that day?

7 A. Yes.

8 Q. How did you come to be at that 805 East 156th Street?

9 A. We received a radio run, which is a 911 call dispatch to
10 us. It was received in regards to a domestic dispute with a
11 firearm at that location. In the radio run it had mentioned a
12 male was assaulting and threatening a female with a firearm.
13 In addition it also named the suspect in that radio run as a
14 Christopher Neal and further stated in there that that
15 individual was on parole.

16 As we were going, an additional call came in from a
17 separate female caller but still that the same location
18 reiterating the same facts that a male at that location fitting
19 the same description as provided in the first call was
20 threatening and assaulting a female with a firearm.

21 A third call came in during that time stating that a
22 male fitting the description from the previous two calls and
23 this was from a separate caller was bleeding from the head in
24 front of the location. All three calls stated that this was in
25 front of the location stated 805 East 156th Street.

IAA6NEAL1A

Camhi - cross

1 Q. I am going to show you what has been marked as Defendant's
2 Exhibit B for identification. It is a three-page document not
3 to be published to the jury.

4 Showing you what has been marked for identification as
5 the first page of Defendant's Exhibit B, do you recognize this
6 document?

7 A. Yes. It's a Sprint printout.

8 Q. How do you recognize this to be a Sprint printout?

9 A. I have seen them in the past. This was the type of radio
10 dispatch that we used at that time.

11 Q. Is this a document that is made in the regular course of
12 NYPD business?

13 A. Yes. It is typed out by a dispatcher that receives the 911
14 call and then routed to a dispatcher who radios to units out in
15 the street.

16 Q. So the information contained in this document is created at
17 or near the time of the incident -- of the transmission; right?

18 A. Correct. It is realtime, yes.

19 Q. Does this document reflect the radio communications for the
20 incident?

21 It is actually three separate radio pages. Let me
22 show you each three of them. This is the first page.

23 A. Okay.

24 Q. Can you see it?

25 A. Yes.

IAA6NEAL1A

Camhi - cross

1 Q. This is the second page.

2 A. Yes.

3 Q. And then this the third page.

4 A. Yes.

5 Q. Okay.

6 MS. DECASTRO: At this time I move to -- I ask to move
7 Defendant's Exhibit B into evidence.

8 MR. DOGRAMACI: Your Honor, I believe there is going
9 to be a limiting instruction.

10 THE COURT: There is and I am prepared to give it. I
11 am going admit the exhibit in evidence.

12 Folks, I am going to note that consistent with the
13 rules of evidence, these statements from the 911 calls are
14 being heard -- being admitted for any affect they may have had
15 on the officers who heard them and not for the truth of the
16 matter asserted within the statements themselves. It is being
17 admitted for the limited purpose of the affect it had on the
18 officers who heard them at the time.

19 You may proceed.

20 BY MS. DECASTRO:

21 Q. Lieutenant Camhi, I am going to show you the first page of
22 Defendant's B.

23 Can you tell this jury -- can you explain to the jury
24 what this document reflects?

25 A. This reflects the summarize --

IAA6NEAL1A

Camhi - cross

1 Q. I think you should be able to circle areas. Oh, we can't.

2 You tell me what it reflects and I can point where it
3 is.

4 A. It is a summarized version of the call coming into the 911
5 dispatcher. You will see at, I guess, the third time down 0205
6 it says, 40 SP 7. That would will be the 40 Conditions Unit,
7 which I was the supervisor of at the time.

8 Below that, 0205, it states another call. Female
9 complainant states, Mother's boyfriend trying to shoot her
10 sister. Male black wearing all gray sweatsuit with black hat.
11 States they are both in front of the location.

12 Q. Do you see the area immediately to the left of that?

13 A. Yes.

14 Q. What does that reflect?

15 A. The speaking of the D1 10C or the times?

16 Q. I apologize. The times that reflects -- the section I am
17 pointing to, the third column to the right?

18 A. Yes. Those are the times. 0205. So 2:05 in the a.m., in
19 the morning.

20 Q. Does this report reflect when the first call came through?

21 A. Yes. This was the first call that came in.

22 Q. What time does that state?

23 A. 0204.

24 Q. Is there anything else that you note on this report?

25 A. Below that it is just 40 Henry, 40 sergeant leaving a

IAA6NEAL1A

Camhi - cross

1 previous job and responding to this as well. Below that at
2 0206 it states, Perp's name is Christopher Neal. Female caller
3 Gillard call back, and that is the call back number for the
4 person that is calling 911.

5 Q. That number corresponds to the number of the original
6 caller?

7 A. Yes. This is the initial call.

8 Q. Can you point to the jury where you can see the number that
9 originally came -- well, where on this document can you see the
10 number that originally called?

11 A. The very top line 0204 hours. Above that you will see the
12 phone call 917-200-3993.

13 Q. You can continue down the document.

14 A. Sure. Further down those are these radio codes stating
15 that 40 Henry had arrived at the location at 0207. Below that
16 at 0208 states female caller states that perp is on parole.

17 Q. What about the rest of the information?

18 A. Lower down it states 0221 40 Conditions Unit that I was in
19 charge of is stating there is an under, which is our code for
20 an arrest at the location. No firearm would be no firearms
21 discharged by us. And no injuries to MOS would be no injuries
22 to any of the officers that are at the location. And then all
23 MOS accounted for, which means all officers on the scene are
24 uninjured and okay.

25 Q. What about the line after that?

IAA6NEAL1A

Camhi - cross

1 A. At 0221 that states two under, which would mean two arrests
2 at the location.

3 Q. So that means that you radioed that you had got -- made two
4 arrests at 0221?

5 A. Correct. I was notifying the dispatcher that we had two
6 arrests at that location.

7 Q. What does the rest of the information below?

8 A. That is just showing at 0222 40 Henry had left the
9 location. Then it seems that they later on dispatcher
10 contacted the sergeant and just indicated that he was also 98
11 from the location, which means he left the location.

12 Q. Go ahead.

13 A. At 0722 the dispatcher I am assuming had realized they
14 hadn't finalized the job in the computer so they raised 40
15 Conditions for a final, which is 92 Frank, which is a
16 family-related arrest.

17 Q. You were the Conditions sergeant; right?

18 A. Correct.

19 Q. So the column to the left of the times, what does that
20 column reflect?

21 A. Those are codes for -- the dispatcher's codes.

22 Q. Now I am going to show you the second page of Defendant's
23 Exhibit B.

24 A. Okay.

25 Q. How is this -- what is the difference between this one and

IAA6NEAL1A

Camhi - cross

1 the one I just showed you?

2 A. This call came in approximately a minute later. It came in
3 from another separate female caller, but the ANI/ALI indicates
4 the location where the call came from. It is the same location
5 but it is a separate phone number.

6 Q. How can you tell from this report that it is a separate
7 phone number? Where do you see?

8 A. The phone number is listed in the first paragraph as the
9 917-736-4778.

10 Q. Is that where I am pointing to?

11 A. Yeah. Second line count next to the word Sprint.

12 Q. So looking at the two reports together, these -- we looked
13 at the first one where it had the 917-200-3993. That was the
14 different caller than this caller; right?

15 A. Yes. Two separate female callers.

16 Q. Can you read for the jury what that -- the section for the
17 jury?

18 A. It states, At 0205 stepfather has the gun, wearing all
19 gray. States, He hit her mom, private house, third floor.
20 States the cell phone number or the phone number. Below that
21 0206 that is the 40 Conditions Unit most likely myself just
22 advising a final in regards to the job. Under that 0330
23 central was finalizing this job in the computer. So I advised
24 her authority of conditions sergeant, which was myself, that
25 this job was one in the same with the previous job that came

IAA6NEAL1A

Camhi - cross

1 over from the female all caller at 0204. It is basically
2 linking the jobs together in the system that they are all one
3 job in the same.

4 Q. Just to be clear this job you linked as part of this job;
5 right?

6 A. Correct.

7 Q. Now I am going to show you the last page of Exhibit B.

8 Can you explain this one for the jury?

9 A. Yes. This is a third call being directed to that location.
10 This job came in at 0206. The top line states, Male hit in the
11 head with object. Below that is that the job is being
12 dispatched to an EMS unit. They are on the same system, but
13 they will be dispatched to that location as well. Under that
14 it just states that the male complainant wants to speak to EMS.

15 Q. Then below that do you see where EMS -- does it know when
16 EMS is on scene?

17 A. Yes. 0214 states that EMS is on scene, and that is the
18 ambulance number next to it.

19 Q. So what if -- did this call come after the calls of the two
20 female callers?

21 A. Yes. This was the last call.

22 Q. How do we know that?

23 A. By the initial time. The first job came in at 0204.
24 Second call from the other female came in at 0205. This last
25 call came in at 0206.

IAA6NEAL1A

Camhi - cross

1 Q. These transmissions that we went over, did you hear those
2 over the radio?

3 A. Yes.

4 Q. You heard those over the radio on November 23rd of 2012;
5 right?

6 A. Yes.

7 Q. Now, at some point you arrived that the location?

8 A. Yes.

9 Q. What, if anything, did you do when you got there?

10 A. We pulled up at the location. I was in a van with other
11 officers -- Rodriguez, Maldonado and Garciarivas. As we pulled
12 up to the location, I observed a male who appeared to be
13 bleeding run to the front of the building. We exited the
14 vehicle. We ran to the front of that building up on to the
15 stoop. As I arrived on the stoop, I observed blood on the
16 stoop and the entry of the building. In front of the building
17 we also observed a female with injuries to her face.

18 Q. What did you do after -- did you also speak to the female?

19 A. I spoke to the female, asked her what occurred. She stated
20 that a male had assaulted her and in addition had threatened
21 her with a firearm. She then provided a brief description
22 which matched the description from the radio run and she
23 provided the location of that individual that he was upstairs
24 and reiterated his name as Christopher Neal.

25 MR. DOGRAMACI: Your Honor, if I could ask that the

IAA6NEAL1A

Camhi - cross

1 limiting instruction be applied.

2 THE COURT: Again, this is what is called hearsay.
3 They are statements that I am admitting not for the matter
4 asserted, but for the affect it had on the -- detective or
5 lieutenant?

6 THE WITNESS: Lieutenant.

7 THE COURT: For the affect it had on the lieutenant or
8 any other officers who heard that statement.

9 BY MS. DECASTRO:

10 Q. What, if anything, did you do after speaking to this
11 female?

12 A. After speaking with her, I entered the lobby of that
13 location and I proceeded up to the stairs by myself at the time
14 while walking noticing trace amounts of blood on the stairs
15 going up.

16 I proceeded up to the floor that I was notified of.
17 As I walked up to that flight, I noticed a pit bull running on
18 the landing of that floor. As I got closer to that floor, I
19 saw the pit bull run into the apartment. I walked up to the
20 entryway. The door was opened to this apartment. I saw the
21 pit ball inside the apartment in a long hallway and I saw a
22 female standing there.

23 I spoke to the female from outside the apartment and
24 asked her, Can you please secure the dog into another room.
25 She said, Yes. She took the dog and put it into a side room at

IAA6NEAL1A

Camhi - cross

1 the end of the hallway. As she was doing that, I asked her,
2 Can I come in? She said, Yeah. In one way or another, she
3 said yes.

4 I entered into the room -- into the hallway. As I am
5 walking in the hallway, I saw an individual at the end of the
6 hallway that fit the description provided over the radio as
7 well as the woman downstairs. He was holding something to his
8 head. He was visibly bleeding. As I saw him, he moved back
9 behind a wall into whatever room he was standing at the time.
10 I slowly proceeded down the hallway. As I was walking down the
11 hallway, he reappeared in the hallway that he was standing in.
12 I walked to the end.

13 It appeared he was in the kitchen of the apartment. I
14 entered the kitchen. It was just myself and him in the
15 kitchen. It appeared he was trying to watch a significant
16 wound that was to the top near the front of his head. I
17 proceeded to talk to him. I stated that I had arrived due to
18 something that happened downstairs or outside, could he tell me
19 what was going on, what happened. I was just trying to create
20 a dialogue with him.

21 He was belligerent. He was angry. He didn't want to
22 speak with me. Then I offered medical assistance. I told him
23 that you have a significant laceration to your heard. You are
24 bleeding pretty bad. We have an ambulance coming. I can get
25 you some assistance.

IAA6NEAL1A

Camhi - cross

1 During this time that I am speaking with him, I am
2 also scanning the apartment from where I walked through the
3 hallway as well as the kitchen for any possible firearms since
4 it was mentioned. I am making sure that I didn't observe any
5 firearm in the general area. I am also keeping in mind that it
6 was mentioned that this individual was on parole. So that is
7 going to heighten my concern in regards to a firearm and in
8 regards to possible fighting.

9 Most individuals that are on parole don't want contact
10 with the police and do not want to be arrested or they will be
11 violated and sent back.

12 MR. DOGRAMACI: Objection.

13 THE COURT: Overruled.

14 MS. DECASTRO: Continue.

15 THE COURT: I am admitting this for your state of
16 mind -- the witness's state of mind.

17 A. While I am scanning the room, I observe there are knives in
18 the sink. There are knives on the washboard on the counter
19 near him while he is washing. I continue the dialogue with
20 him. Mr. Neal at that time was larger than he appears now and
21 significantly larger than myself. As I stated before I was
22 alone with him in the kitchen.

23 I waited until I heard other officers -- until I could
24 hear other officers coming up. As I heard that, I continued to
25 speak to Mr. Neal. I saw uniforms in the doorway. I wasn't

IAA6NEAL1A

Camhi - cross

1 able to tell who it was. I glanced over and noticed a uniform
2 in the doorway knowing that somebody had come to the apartment.
3 I let Mr. Neal walk past me out of the kitchen into the
4 hallway. My idea was that he was going to be away from any
5 type of weapons that could be possible harm to me, other
6 officers. So letting him exit the kitchen was the safest thing
7 not only for me but the other officers and Mr. Neal.

8 At this time he was in the beginning of the hallway
9 closest to the kitchen. I was standing with my back to the
10 kitchen in the doorway and other officer, Sergeant Kaiser, was
11 at the other end of the hallway at the entryway way of the
12 apartment.

13 Q. What, if anything -- well, go back for a second. At any
14 point did plaintiff present to you identification?

15 A. No.

16 Q. What happened after you saw Sergeant Kaiser at the doorway?

17 A. When I saw Sergeant Kaiser, Mr. Neal had walked past me.
18 He was still in arm's reach of me. At that point I reached out
19 for Mr. Neal's right arm with my right arm and stated, Get your
20 hand behind your back. When I tried to do that, Mr. Neal
21 pushed my arms away then he -- the best way to describe it
22 would be stiff armed me, which is he stuck his arm straight out
23 into my chest, pushing me back against the wall in that
24 hallway. I stepped into the hallway slightly in front of him.
25 He pushed me against the wall then grabbed my uniform and

IAA6NEAL1A

Camhi - cross

1 slammed me into the wall. I lost my grip. I attempted to grab
2 him again. Then we became entangled and wrestling at that
3 point.

4 Q. Why did you lose your grip on him?

5 A. He is larger than me so his arm's reach was longer than
6 mine. He pushed me back. I lost my grip pulling my arms off
7 of him. I was able to reach onto his forearm, but I wasn't
8 able to overpower him.

9 Q. What happened after that?

10 A. After that Sergeant Kaiser proceeded down the hallway. He
11 appeared. I was behind -- well, Mr. Neal was in front of me
12 blocking my view, but it appeared that Sergeant Kaiser was
13 trying to grab the left arm of Mr. Neal. Myself, Mr. Kaiser
14 were attempting to -- Sergeant Kaiser were attempting to get
15 Mr. Neal's hands behind his back. We are shouting, Stop
16 resisting. Stop resisting. Get your hands behind your back.
17 Get your hands behind your back repeatedly.

18 Mr. Neal continues to push me back and forth against
19 the two walls. It is a relatively narrow hallway. So he is
20 very easily able to go bang into one wall and right back into
21 another one. There is not a lot of space.

22 During this time the three of us slam into a door in
23 that hallway that I previously seen the female I mentioned
24 secure the bit bull. The pit bull came running out of the
25 bedroom past the three of us that were in the doorway and I am

IAA6NEAL1A

Camhi - cross

1 not sure where it went after that. It went past me, and I was
2 concentrating on what I was doing at that time with Mr. Neal.

3 Q. What happened after the pit bull came out of the room?

4 A. Myself and Sergeant Kaiser continued to struggle with
5 Mr. Neal. He was still refused. He still have had I firm grip
6 on me, on my uniform pushing me up against the wall. At that
7 time I heard what I believe to be Sergeant Kaiser state
8 something along the lines of Taser as an indication to Mr. Neal
9 as well as myself that he was going to deploy a Taser or he was
10 upholstering a Taser.

11 At that point I attempted to push back free myself
12 from Mr. Neal to create space so I wouldn't be struck by the
13 Taser. I was unable to because Mr. Neal was still holding onto
14 me at the time. I pushed back as far as I could. I heard the
15 Taser deploy, which is the popping sound from the Taser darts
16 being -- puncturing the paper that is on the front of the Taser
17 cartridge. When it is deployed and then you hear a crackling
18 or a popping sound as the electricity is deployed. I heard the
19 popping sound.

20 It didn't appear that Mr. Neal had any affect due to
21 this. So it was my impression at that time that he hadn't been
22 struck because he wasn't stopping his aggression. He wasn't
23 loosening his hold on me, which he would have if he was struck
24 in my opinion. While I was wrestling with him, the wires from
25 the Taser actually became tangled on my arms entangling on my

IAA6NEAL1A

Camhi - cross

1 right and left arm, which caused the electrical charge from the
2 Taser to go across my arms, across my chest, locking my arms
3 up, which now I was pretty much defenseless at that short
4 moment. This is a five-second surge.

5 At that moment Mr. Neal was able to overtake me, push
6 me against the wall and then we all turned and I was pushed
7 through that open doorway backwards with my back to the room
8 through the doorway and fell over a bed that was very close to
9 the doorway right inside the doorway.

10 I fell backwards over the bed, half on the bed, half on the
11 floor. Mr. Neal landed on top of me, and then I'm not sure
12 who, if anybody, was on top of him. My lower body, legs were
13 on the bed. Mr. Neal was on top of them, and my back and head
14 were on the floor.

15 (Continued on next page)

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IaaWnea2

Camhi - Cross

1 Q. And you said that you felt the effects of the Taser, right?

2 A. Yes. Momentarily, yes, because they were making contact
3 with my arms. Yes.

4 Q. And you said that it happened in cycles, correct?

5 A. Correct.

6 Q. Did you feel more than one cycle of electricity?

7 A. No.

8 Q. Did you hear the Taser go off more than once?

9 A. No.

10 Q. You said that the wires would shoot out, that they became
11 entangled on your arms?

12 A. Correct.

13 Q. How long are these wires?

14 A. I recall, I believe they were somewhere around 16 feet.
15 I'm not 100 percent sure.

16 Q. Did you have a Taser on you that night?

17 A. No, I didn't.

18 Q. Where were you when plaintiff was finally handcuffed?

19 A. I was underneath him.

20 Q. Were you able to assist in the handcuffing?

21 A. Not assist, no. I was just pushing, trying to push him off
22 of me, but I wasn't able to actually assist.

23 Q. Did you feel any blows to your body while you were on the
24 bed?

25 A. No.

IaaWnea2

Camhi - Cross

1 MR. DOGRAMACI: Objection. Leading.

2 THE COURT: Overruled.

3 Q. Did you feel any blows to your body while you were on the
4 bed?

5 A. No, I did not.

6 Q. Did you see anyone use a baton while you were on the bed?

7 A. No, I did not.

8 Q. Did you see anyone use a baton at any point?

9 A. No.

10 Q. Did you ever punch plaintiff?

11 A. No.

12 Q. Did you see anyone punch plaintiff?

13 A. No.

14 Q. Did you ever hit plaintiff with any other objects?

15 A. No, I did not.

16 Q. Did you see anyone hit plaintiff with any other objects?

17 A. No.

18 MS. DeCASTRO: Just one moment to confer?

19 THE COURT: Yes.

20 Q. Mr. Kaiser -- sorry.

21 Lt. Camhi, how did the struggle with the plaintiff end on
22 the bed?

23 A. It ended -- I was underneath him, and then the next thing I
24 knew that he was being lifted off of me.

25 Q. What, if anything, did you do after -- well, withdrawn.

IaaWnea2

Camhi - Redirect

1 Were you able to get up from the bed?

2 A. I was no longer on the bed. After he was lifted off me,
3 the rest of me slid. Since I was underneath him, the rest of
4 my body slid off the bed onto the floor. I was a little bit
5 dazed from falling to the floor and, of course, the tasing. It
6 took me a few seconds, and I was able to get up and stand up
7 and proceed out of the room.

8 Q. Did you have any further interactions with plaintiff that
9 night?

10 A. No.

11 Q. What, if anything, did you do after you left the location?

12 A. I left the location. I returned to the 40 Precinct and
13 assisted with paperwork in regards to the arrest and the Taser
14 deployment, and then I relieved the desk officer.

15 MS. DeCASTRO: Nothing further.

16 THE COURT: Redirect.

17 REDIRECT EXAMINATION

18 BY MR. DOGRAMACI:

19 Q. Lt. Camhi, I'm going to ask about not right now, but I'm
20 going back in time to November 2012. Even before this arrest
21 on Thanksgiving, you and -- he's now, I believe, a lieutenant,
22 you and Lt. Kaiser knew one another, correct?

23 A. We were both assigned to the 40 Precinct.

24 Q. You knew one another, correct?

25 A. Yes, we were both sergeants at the 40 Precinct.

IaaWnea2

Wilson - Direct

1 Q. You've known one another for some time, correct?

2 A. Just from the time that he was assigned there. I never met
3 him before that, I don't believe.

4 Q. You were friendly with one another?

5 A. We'd never hang out outside of work, no.

6 MR. DOGRAMACI: That's all.

7 THE COURT: Recross-examination.

8 MS. DeCASTRO: No, your Honor.

9 THE COURT: You can step down. Thank you.

10 (Witness excused)

11 MR. DOGRAMACI: The next witness is Officer Wilson.

12 ROMAIN WILSON,

13 called as a witness by the Plaintiff,

14 having been duly sworn, testified as follows:

15 DIRECT EXAMINATION

16 BY MR. DOGRAMACI:

17 Q. Sir, I want to use the right title. Is it Officer Wilson?

18 A. It's currently Sgt. Wilson.

19 Q. Sgt. Wilson?

20 A. Yes.

21 Q. Thank you.

22 Sgt. Wilson, prior to plaintiff's arrest on November
23 23, 2012, you had seen and interacted with plaintiff, correct?

24 A. That is correct.

25 Q. You two knew one another, correct?

IaaWnea2

Wilson - Direct

1 A. I wouldn't say we knew each other, but I did patrol the
2 area around his house, yes.

3 Q. OK. You knew him by name, correct?

4 MS. DeCASTRO: Your Honor, could we have a quick
5 sidebar?

6 MR. DOGRAMACI: Your Honor, it might not be necessary.
7 I'm not going to go very far with this.

8 THE COURT: OK. Just be consistent with my prior
9 ruling on this issue. OK? Be consistent with my prior ruling.

10 MR. DOGRAMACI: Yes.

11 Can I have my last question read back as well, your
12 Honor?

13 THE COURT: Yes, you may.

14 (Record read)

15 BY MR. DOGRAMACI:

16 Q. Would you answer that question, please, Sgt. Wilson?

17 A. I don't recall knowing him by name, no.

18 Q. You were present during the November 23, 2012, arrest of
19 plaintiff at 805 East 165th Street in the Bronx, correct?

20 A. Yes.

21 Q. And you participated in the arrest, correct?

22 A. I did not physically participate in the arrest.

23 Q. You saw him arrested, correct?

24 A. I don't recall seeing him placed in handcuffs, no.

25 Q. You were inside the apartment when he was arrested,

IaaWnea2

Wilson - Cross

1 correct?

2 A. Yes, sir.

3 Q. And on the occasion of November 23, 2012, when plaintiff
4 was arrested, you were carrying among your police equipment an
5 extendible baton, correct?

6 A. Yes, sir.

7 Q. You were in uniform acting as a police officer, correct?

8 A. Yes.

9 Q. You saw Mr. Neal tasered, correct?

10 A. I did not see Mr. Neal tasered, no.

11 MR. DOGRAMACI: That's all, your Honor.

12 THE COURT: All right.

13 Any cross-examination?

14 MS. DeCASTRO: Just one moment?

15 THE COURT: Sure.

16 CROSS-EXAMINATION

17 BY MS. DeCASTRO:

18 Q. Sgt. Wilson, where are you currently working?

19 A. I am currently assigned to Manhattan North Gang Squad.

20 Q. What do you do in that capacity?

21 A. I'm a supervisor in charge of case work.

22 Q. On November 23 of 2012, who were you working with?

23 A. I was working with Police Officer Green.

24 Q. And at that time, were you still in the rank of police
25 officer?

IaaWnea2

Wilson - Cross

1 A. Yes, ma'am.

2 Q. Why did you respond to that location?

3 A. I responded in a backup capacity.

4 Q. At any point on that day, did you take out your baton?

5 A. I don't recall taking out --

6 MR. DOGRAMACI: Objection. Leading.

7 THE COURT: I'll allow it.

8 Q. At any point on November 23, 2012, did you take out your
9 expandable baton?

10 A. I don't recall taking out my baton at all that day, no.

11 Q. At any point on that date, did you strike plaintiff with
12 your expandable baton?

13 A. No, I did not.

14 Q. Did you strike plaintiff with anything else?

15 A. No, I did not.

16 Q. Did you ever enter the room where plaintiff was arrested?

17 A. No, I did not.

18 MR. DOGRAMACI: Objection to continuing leading.

19 THE COURT: Overruled.

20 Q. Did you ever enter the bedroom in which plaintiff was
21 arrested?

22 A. No, I did not.

23 Q. Did you ever assist in the handcuffing of plaintiff?

24 A. No, I did not.

25 Q. Did you ever punch the plaintiff?

IaaWnea2

Wilson - Cross

1 A. No, I did not.

2 Q. Did you ever tase the plaintiff?

3 A. No, I did not. I was not --

4 Q. Did you have a Taser on you on November 23, 2012?

5 A. I was not equipped to carry a Taser at that time, no.

6 MS. DeCASTRO: Just one moment, your Honor?

7 THE COURT: Yes.

8 Q. Sgt. Wilson, at what point did you arrive at the apartment?

9 A. I don't recall the exact time, but shortly after the
10 initial calls came over.

11 Q. When you arrived at the apartment, what, if anything, was
12 happening?

13 A. When I, when I arrived to the apartment and I got upstairs,
14 I followed the trail of blood. I knew that there was officers
15 upstairs already. I got into the front vestibule of the
16 apartment, which I observed officers talking with Mr. Neal.

17 Shortly thereafter, a struggle ensued, and then a pit
18 bull became -- got into the hallway. My attention was then
19 drawn to the pit bull, immediately, because it was running
20 around and barking very aggressively. I believe I followed the
21 pit bull shortly -- to a short part of the corridor leading
22 towards the kitchen, at which point I observed the pit bull
23 bite at Officer Green's foot.

24 Q. Did you ever place your hand on plaintiff on that day?

25 A. No, I did not.

IaaWnea2

Kaiser - Direct

1 MS. DeCASTRO: No further questions.

2 MR. DOGRAMACI: That's all, your Honor.

3 THE COURT: OK. Thanks.

4 You can step down. Thank you.

5 (Witness excused)

6 MR. HIGGINS: Your Honor, plaintiff calls Officer
7 Michael Kaiser to the stand, please.

8 THE COURT: All right.

9 MICHAEL KAISER,

10 called as a witness by the Plaintiff,

11 having been duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 BY MR. HIGGINS:

14 Q. Good afternoon, Officer Kaiser.

15 A. Good afternoon.

16 Q. On November 23, 2012, you answered a call at 805 East 165th
17 Street in the Bronx, is that correct?

18 A. Yes.

19 Q. At that time you discharged a Taser, did you not, sir?

20 A. While I was inside that location?

21 Q. Yes, sir.

22 A. Yes.

23 Q. And the target of the Taser that you discharged was the
24 plaintiff, Mr. Christopher Neal, is that correct?

25 A. Correct.

IaaWnea2

Kaiser - Direct

1 Q. Officer Kaiser, you've been given training in the use of a
2 Taser, is that correct?

3 A. Yes.

4 Q. And so you know how to use one, is that fair?

5 A. Yes.

6 Q. Is it a requirement of the New York City Police Department
7 that you have training before you are authorized to use a Taser
8 in the field?

9 A. Yes.

10 Q. When you fire a Taser gun, there are two prongs that come
11 out of the front of the Taser, is that correct?

12 A. That are discharged from the front of the Taser?

13 Q. Yes.

14 A. Yes.

15 Q. And those prongs are metal and sharp at the end?

16 MR. MANNINGHAM: Objection. Leading.

17 THE COURT: I'll allow it.

18 It's all right. You can answer that.

19 A. The prongs -- I've never touched the end of it. I'm not
20 sure what they're made out of, to tell you the truth.

21 Q. And your understanding of the purpose of the prongs is that
22 it's there to stick into the target that the Taser's aimed at,
23 is that correct?

24 A. That's correct.

25 Q. And connected to those -- well, how big are the metal

IaaWnea2

Kaiser - Direct

1 prongs?

2 A. Around an inch, I'd say.

3 Q. And they're thin and made of metal?

4 A. They're thin. I'm not exactly sure what material they're
5 made of.

6 Q. Are they sort of like a straight fishing hook? Is that
7 fair?

8 MR. MANNINGHAM: Objection.

9 THE COURT: I'll allow it. It's hard to explain.

10 A. They're straight, yes.

11 Q. They're straight? They don't have a snail or a hook at the
12 end; sort of a straight point, is that fair?

13 A. A hook at the end?

14 Q. You know, like a fishing hook has a little end on it so it
15 doesn't come out of the fish's mouth. The Taser prong, is it
16 straight and sharp, or does it have a curve at the end so it
17 doesn't come out of the target that it's shot at?

18 A. I don't know.

19 Q. OK.

20 A. No.

21 Q. And attached to those prongs are wires, is that correct?

22 A. Yes.

23 Q. The purpose of those wires is to conduct electricity from
24 the Taser gun that you have in your hand through the wires to
25 the end of the prongs, is that correct?

IaaWnea2

Kaiser - Direct

1 A. Yes.

2 Q. And then that electrical discharge goes into the target,
3 presumably to immobilize the target, is that fair?

4 MR. MANNINGHAM: Objection.

5 THE COURT: Just answer it. Is that right? If you
6 need to elaborate, you can do so.

7 A. Generally speaking, the -- yes. Two prongs would discharge
8 from the front of the Taser. They are attached to a line or a
9 wire that runs current through, and then the electrical current
10 will go through the wire into the prongs and into the target,
11 if everything works correctly.

12 Q. OK. When does the electrical charge go from the Taser gun
13 through the prongs into the target, if you know?

14 A. To the best of my knowledge, when you, when you depress the
15 trigger.

16 Q. And do you know how long that electrical charge lasts when
17 you depress the trigger?

18 A. Approximately five seconds.

19 Q. OK. So you depress the trigger at the target, and the two
20 prongs go into the target and there's an automatic five seconds
21 of electrical charge that goes through the wires into the
22 prongs, is that correct?

23 A. Well, the prongs -- when you depress the trigger, the
24 prongs are ejected out of the front of the cartridge. Wherever
25 they go, they go. And then yes, at the same time, as far as I

IaaWnea2

Kaiser - Direct

1 understand, that five-second cycle is going.

2 Q. OK. And can you send a second electrical charge through
3 the wires to the prongs after they have been shot from the
4 Taser gun?

5 A. Yes.

6 Q. And how do you do that?

7 A. You would have to -- the five seconds had ended from the
8 first one, you would have to let go of the trigger and depress
9 the trigger again.

10 Q. And that would send another cycle of electricity through
11 the wires, is that correct?

12 A. Correct.

13 Q. Do you know how long that second cycle would last?

14 A. Five seconds, approximately.

15 Q. And you could repeat this process a third time?

16 A. Yes.

17 Q. Do you know how many times you can repeat the process by
18 sending a cycle of electricity through wires and prongs that
19 have already been discharged?

20 A. No, I don't know how many times.

21 THE COURT: Do the wires stay out? Do the wires stay
22 out but you can -- I don't know what the terminology is,
23 recharge it or do it again?

24 THE WITNESS: Sure. So, once the prongs and the wires
25 have been discharged, you can -- they're, they're not --

IaaWnea2

Kaiser - Direct

1 wherever they landed, that's where they'll land. The wires
2 stay attached if they don't break, and then -- so that stays
3 the same. And yes, then you could send another cycle through
4 the same wire and prongs.

5 THE COURT: OK.

6 BY MR. HIGGINS:

7 Q. Is it your understanding that you could conceivably pull
8 the trigger up to about ten times to send the cycle of
9 electricity through the Taser wire --

10 MR. MANNINGHAM: Objection.

11 Q. -- to the prongs?

12 THE COURT: Overruled.

13 A. I'm not sure. It's operated by a battery, so I don't know.
14 It all depends on how, how full the battery is, if it's new, if
15 it's old. I don't know how many, how many times it would send
16 the charge through.

17 Q. OK. Now, if you wanted to discharge a Taser at a second
18 target but you had already discharged the two prongs into one
19 target, how would you accomplish that?

20 A. You would have to remove the cartridge that you had
21 discharged.

22 Q. OK. Sorry to interrupt you, but can you explain to us
23 first what you mean by the cartridge?

24 A. Sure. On the front of the device, there's -- they're
25 usually black. It's about the size of a ring box that has two

IaaWnea2

Kaiser - Direct

1 little plastic -- it's plastic, two little plastic parts, you
2 pinch and you slide onto the front, and it clicks and that
3 is -- the cartridge is on your Taser.

4 When you press the trigger of the Taser, there's plastic
5 doors on the very front of that cartridge that pop off. The
6 darts come out followed by the line, and that stays attached.

7 So you're asking now, that's happened?

8 Q. No, I believe you answered my question. Thank you, sir.

9 A. OK.

10 Q. So each cartridge contains two prongs with wires and some
11 sort of propulsion mechanism so that they can be shot at the
12 target, is that fair?

13 A. Two prongs with wires. I can't speak to the propulsion
14 mechanism. I don't know.

15 Q. How long would it take to take off a discharged cartridge
16 and put a new, not-yet-discharged cartridge onto the end of the
17 Taser gun?

18 A. It would depend where you're getting the new cartridge
19 from. Are you saying I'm holding both?

20 Q. Yes. Let's assume you have one, a second cartridge, right
21 near your hand. How long?

22 A. Sure. You would have to -- it would not take very long.
23 I've never done it, but you remove the one that you've used,
24 drop it, pick up the other one and click it on. It would not
25 take very long.

IaaWnea2

Kaiser - Direct

1 Q. A matter of seconds, is that fair?

2 A. Probably, depending on where you had another cartridge.

3 Q. Now, the New York City Police Department doesn't let just
4 any officer go into the field with a Taser, is that correct?

5 MR. MANNINGHAM: Objection. Is he talking about now
6 or back then?

7 MR. HIGGINS: Just generally. I think my question is
8 as a general matter.

9 MR. MANNINGHAM: He said any officer. What does he
10 mean by that?

11 BY MR. HIGGINS:

12 Q. You need special training to be authorized to carry a Taser
13 in the field, is that correct?

14 A. You need to be trained in the use of a Taser to carry one,
15 yes.

16 Q. Trained by the New York Police Department, correct?

17 A. Yes.

18 Q. And the New York Police Department has many rules and
19 regulations pertaining to the training in the use of a Taser,
20 is that correct?

21 A. There's, there's rules on use of a Taser, correct.

22 Q. Yes. And there are rules and regulations on how and when
23 and what process by which an officer is able to take a Taser
24 into the field, is that correct?

25 MR. MANNINGHAM: Objection.

IaaWnea2

Kaiser - Direct

1 A. I'm not sure of the question.

2 THE COURT: Why don't you rephrase the question.

3 MR. HIGGINS: OK. I'll rephrase it.

4 Q. Does the -- New York City Police Department carefully
5 monitors and describes for officers how they're supposed to
6 handle and use Tasers, isn't that fair?

7 MR. MANNINGHAM: Objection.

8 THE COURT: Overruled.

9 Q. Please answer the question, sir.

10 A. Sure. You mind asking or have it read back?

11 MR. HIGGINS: Can you read back?

12 THE COURT: No. I have a rough transcript here right
13 here.

14 MR. HIGGINS: OK.

15 THE COURT: If this is wrong, let me know.

16 "Does the -- New York City Police Department carefully
17 monitors and describes for officers how they're supposed to
18 handle and use Tasers, isn't that fair?"

19 THE WITNESS: Yes.

20 BY MR. HIGGINS:

21 Q. And in fact, there are written orders on how you are to use
22 a Taser, is that correct?

23 A. Correct.

24 Q. And that order has been promulgated by the New York Police
25 Department brass to be complied with by its officers, isn't

IaaWnea2

Kaiser - Direct

1 that correct?

2 A. Correct.

3 Q. And as an officer, it's incumbent upon you to comply with
4 the rules that are promulgated by the police department for the
5 manner and use of a Taser, is that correct?

6 A. Correct.

7 Q. And that written order specifies what happens and what
8 you're supposed to do if you actually discharge a Taser in the
9 field, is that correct?

10 A. Correct.

11 Q. There's bookkeeping and paperwork requirements for what
12 happens if a Taser is discharged in the field, is that correct?

13 A. Correct.

14 MR. HIGGINS: Your Honor, we would like marked as
15 Exhibit 1 -- I'm sorry, as Plaintiff's Exhibit A for
16 identification -- should I describe the document?

17 THE COURT: Don't defendants use numbers?

18 MS. DeCASTRO: Yes.

19 THE COURT: You can make it 1, because defendants' are
20 letters.

21 MR. HIGGINS: May I show it to the witness?

22 THE COURT: You may.

23 Do you have a copy for me and defense counsel?

24 BY MR. HIGGINS:

25 Q. Officer Kaiser, have you ever seen what's been marked as

IaaWnea2

Kaiser - Direct

1 Plaintiff's Exhibit 1?

2 A. Yes.

3 Q. What is it?

4 A. It is an interim order to patrol guide series 212 of the
5 police department.

6 Q. And the subject matter is the "use of conducted-energy
7 devices, CED." Do you see that?

8 A. Yes.

9 Q. And conducted-energy device is just the generic name for
10 Taser, isn't that fair?

11 A. Yes.

12 Q. In fact, Taser is a brand name, like Kleenex or any other
13 terms people use to just describe generic items, is that fair?
14 Taser's a brand name?

15 A. Yes, Taser's a brand name.

16 Q. Thank you.

17 So when you say Taser, it's the same as a CED, or a
18 conducted-energy device, is that correct?

19 A. Correct.

20 Q. So the document that you have in your hand --

21 THE COURT: You don't need to read from the document.
22 Did you want to ask him a question?

23 MR. HIGGINS: I want to offer it into evidence. I
24 want to ask him about the document, how he received it.

25 THE COURT: Are you familiar with this document?

IaaWnea2

Kaiser - Direct

1 THE WITNESS: Yes.

2 THE COURT: OK.

3 MR. MANNINGHAM: Your Honor, we would object to this
4 coming into evidence.

5 THE COURT: Yes. Let's just actually meet at sidebar
6 briefly.

7 (Continued on next page)

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Kaiser - Direct

1 (At sidebar)

2 THE COURT: Two things.

3 First, I thought you were going to tell me when you
4 wanted to use the patrol guide for something other than for use
5 of force before you did so.

6 Second, are you using this to impeach him?

7 MR. HIGGINS: I think I established that there are
8 rules he's required to follow -- and this goes to the bias
9 prong -- and in your pretrial order, your Honor, you said it
10 has probative value of reasonableness in a force case.

11 THE COURT: I was focusing on use of force
12 specifically, but what exactly are you using to impeach him?

13 MR. HIGGINS: Well, there are --

14 THE COURT: Why don't you ask him a question and then
15 try to impeach him.

16 MR. HIGGINS: The evidence is going to show they
17 didn't follow the procedure with this. In fact, it's going to
18 show they didn't put down the correct serial numbers. That's a
19 disparity the jury's going to want to hear about and the other
20 recordkeeping evidence they're supposed to keep.

21 THE COURT: You want to impeach him just about the
22 recordkeeping, not just about the use of that.

23 MR. HIGGINS: That's why -- they didn't answer
24 honestly when they said it was fired once, because each Taser
25 has its only internal memory as to how many times it was fired,

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Kaiser - Direct

1 and you're supposed to log in the serial number of the
2 cartridge, and the entry they have doesn't match the entry of
3 the cartridge of the Taser in this report.

4 MR. MANNINGHAM: Your Honor, we had this issue in his
5 deposition, and we explained to them that the Taser cartridge
6 was vouchered, it was just a paperwork error, and I presented
7 an email to both of them five months ago saying I have a
8 physical cartridge if you want to inspect it.

9 This issue did not show up until today. We have the
10 physical Taser cartridge that showed it was a paperwork error.
11 We offered for them to come to our office for inspection of the
12 physical Taser cartridge, which was vouchered on that day.
13 They did not respond to my email. They did not bring this
14 issue up until now, your Honor.

15 MS. DeCASTRO: And second, on the admissibility of it,
16 they're using this document to impeach him. In and of itself,
17 this document is not admissible. It's collateral -- it's
18 really not an issue. It's filled with hearsay. It's not
19 admissible on its own, so it can't just be introduced into
20 evidence.

21 MR. HIGGINS: It's admissible because it's not a
22 contract. It's not a statement. Not everything that's written
23 is a statement. It's not a statement. This is the directives
24 and the policies, and the rule of evidence is very clear it has
25 to be an assertion or statement by someone.

IaaWnea2

Kaiser - Direct

1 THE COURT: Have you even established that there's a
2 contradiction here, something to impeach him on yet?

3 MR. HIGGINS: No, I haven't.

4 THE COURT: Why don't you see if you can do that first
5 and then we'll revisit this issue.

6 MR. DOGRAMACI: Your Honor, may I make a suggestion?

7 THE COURT: Yes.

8 MR. DOGRAMACI: They're going to do their direct after
9 you. This stuff can be used for impeachment after he's told
10 his story on direct. We can save it for the next round.

11 THE COURT: Right now, you're not using it to impeach
12 him.

13 MR. HIGGINS: In his rules, his requirements, things
14 he was supposed to file, and we have the memorandums. You're
15 supposed to put the serial numbers down; that's a disparity the
16 jury should be able to see. At 2:30 in the morning, he said
17 the cartridge was the number X. At 4:30 the same morning, he
18 said it was Y. That shows it was shot more than once.

19 MR. MANNINGHAM: Your Honor, I can explain.

20 THE COURT: Can we follow Mr. Dogramaci's suggestion
21 in any event?

22 MR. HIGGINS: If you let me proceed, yes.

23 THE COURT: It's not ripe for impeachment at this
24 point. You haven't laid a proper foundation in any event, so
25 why don't we proceed and then we can revisit it.

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Kaiser - Direct

1 MS. DeCASTRO: Can we revisit the admissibility of the
2 document in and of itself after?

3 THE COURT: Sure.

4 (Continued on next page)

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Kaiser - Direct

1 (In open court)

2 MR. HIGGINS: May I?

3 THE COURT: Go ahead. You may proceed.

4 BY MR. HIGGINS:

5 Q. Officer, you testified that you used a Taser on November
6 23, 2012, is that correct?

7 A. Yes.

8 Q. And did you comply with the rules and regulations for
9 filing paperwork for having used that Taser after the fact?

10 MR. MANNINGHAM: Objection.

11 THE COURT: Hold on.

12 Can you answer that question?

13 THE WITNESS: I would just want to know what
14 paperwork.

15 THE COURT: Yes. What paperwork? Why don't you ask a
16 specific question.

17 BY MR. HIGGINS:

18 Q. Are there paperwork requirements that must be filed after
19 you discharge the Taser?

20 A. Yes.

21 Q. Did you comply with those requirements by filing such
22 paperwork?

23 MR. MANNINGHAM: Objection.

24 THE COURT: Why don't you specifically ask what
25 paperwork are you referring to? Why don't you specifically ask

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Kaiser - Direct

1 the question.

2 MR. HIGGINS: I didn't know that after the sidebar I
3 was allowed to do that, Judge.

4 THE COURT: OK.

5 BY MR. HIGGINS:

6 Q. After you discharge a Taser, are you required to fill out a
7 form called the lethal-use report? Is that correct?

8 Less-lethal-use report? Sorry.

9 A. We're talking about in 2012?

10 Q. Yes.

11 A. It -- the paperwork has to be done -- I don't know. I'd
12 need to review this back then to see what the procedure was for
13 who -- what the actor was who filled it out.

14 Q. You're referring to what's been marked for identification
15 as plaintiff's 1?

16 A. I mean, I don't know if it's in this one or if it's in
17 another guide.

18 THE COURT: OK. Feel free to look at it and see if it
19 refreshes your recollection.

20 Q. Officer Kaiser, perhaps, if it helps, as you try to refresh
21 your recollection, if you look at page 4 of what's been marked
22 as Plaintiff's Exhibit 1, at the bottom.

23 A. At the bottom of page 4. 4 of 10? So marked 238?

24 Q. Yes, correct.

25 A. Sure.

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Kaiser - Direct

1 Q. Yes, the italicized-version language right there.

2 A. OK.

3 MR. MANNINGHAM: Objection, your Honor. I think he's
4 trying to get to a part that we just discussed at sidebar.

5 THE COURT: It's OK. He can see if it helps him
6 remember what the requirements were.

7 THE WITNESS: OK. I've read it.

8 BY MR. HIGGINS:

9 Q. Does that refresh your memory as to whether paperwork must
10 be filed after a Taser's discharged on duty?

11 A. There's a few things listed, but not the less-lethal report
12 that you're referring to.

13 Q. You're familiar with the less, less than, less-than-lethal
14 report form, aren't you, sir?

15 A. I know it was once used by the department, yes.

16 Q. In fact, we've discussed this before, have we not? Have
17 you not been asked questions about this under oath?

18 A. Yes.

19 Q. And that was at a deposition where Mr. Dogramaci asked you
20 questions, is that correct?

21 A. Yes.

22 Q. And you were sworn in, under oath, just like you were sworn
23 in today to testify truthfully at that deposition, is that
24 correct?

25 A. Yes.

IaaWnea2

Kaiser - Direct

1 Q. That was in March of this year, 2018. Do you recall?

2 A. I don't recall. That sounds close.

3 Q. And at the time you discussed the less-lethal report with
4 Mr. Dogramaci --

5 A. Yes.

6 Q. -- correct?

7 Officer Kaiser, when a cartridge, a Taser cartridge is
8 discharged and the target is hit with the prongs, is there a
9 paperwork requirement by which the officer who discharged the
10 Taser must do something relating to that cartridge?

11 A. Is there paperwork required with it?

12 Q. Yes, sir.

13 A. That the officer who discharged it has to do?

14 Q. Well -- yes.

15 A. Not necessarily the officer who discharged it.

16 Q. If not the officer who discharged it, then who?

17 A. It can be -- I'm not sure -- again, what paperwork are we
18 talking about?

19 Q. Are you familiar with a cartridge-use voucher form that may
20 sometimes be called a general property clerk invoice?

21 A. Yes.

22 Q. You've seen those forms before, haven't you?

23 A. Yes.

24 Q. And in fact, at the deposition in March of 2018, we
25 discussed one of those forms, isn't that correct?

IaaWnea2

Kaiser - Direct

1 A. Yes.

2 Q. Officer Kaiser, is each officer of the police department of
3 the City of New York required to keep what's called an activity
4 log?

5 A. I believe it's below the rank of captain, yes.

6 Q. Were you below the rank of captain in November 2012?

7 A. Yes.

8 Q. What is an activity log, if you can explain what that is?

9 A. It's like a memo pad that has a serial number to it. We
10 each get our own. We write down our, our activities for, over
11 the course of a shift, the time you come in, different
12 assignments that you go to, the time you sign out.

13 Q. It's in handwritten form, those entries, right? Isn't that
14 correct?

15 A. That's correct.

16 Q. And those handwritten entries are done by you?

17 A. Yes. Sometimes someone else -- a supervisor will write in
18 your book as well, but generally it's by your book, you write
19 in yourself.

20 Q. Thank you.

21 And at what time do you make those entries into that
22 logbook?

23 A. After -- after whatever happened, whatever you're going to
24 write about, after it's happened.

25 Q. So the entries are made at or near the time of the entries

IaaWnea2

Kaiser - Direct

1 that you're describing in the book, is that right?

2 A. At or near, but if you get called onto something else, it
3 might get pushed, but before the end of that shift, you'll have
4 filled out everything you need to fill out.

5 Q. And there's certain information that officers are required
6 to enter into that activity log, isn't that correct?

7 A. Yes.

8 THE COURT: If someone used a Taser during an
9 incident, whose obligation is it to put it in the activity book
10 or your memo book? Is it just yours or one person who is
11 present at the scene?

12 THE WITNESS: Into my activity log, it would be me.

13 THE COURT: OK. So if you used a Taser on a
14 particular occasion, would you be obligated to put that in your
15 activity log?

16 THE WITNESS: Yes.

17 MR. HIGGINS: Your Honor, if I may confer with
18 counsel?

19 THE COURT: Yes. Sure.

20 BY MR. HIGGINS:

21 Q. Officer Kaiser, you were in uniform on November 23, 2012?

22 A. Yes.

23 Q. And when you went to 805 East 165th Street, you were acting
24 in accordance with your duties as an officer of the New York
25 City Police Department, is that correct?

IaaWnea2

Kaiser - Direct

1 A. Yes, as a sergeant.

2 Q. When you discharged the Taser that day, you were acting as
3 a police officer, is that correct?

4 A. As a sergeant.

5 Q. As a sergeant. I apologize.

6 A. Sure. No, I just -- I was a sergeant, yes.

7 MR. HIGGINS: That's all we have for now.

8 THE COURT: All right.

9 Cross.

10 MR. MANNINGHAM: Yes, your Honor.

11 MR. DOGRAMACI: Your Honor, for clarity, we understand
12 this is, in fact, defendants' direct examination.

13 THE COURT: Yes.

14 As I said to you folks a while back, it doesn't really
15 matter who calls a witness. It could have been that the
16 defendants called sergeant --

17 Is it lieutenant?

18 THE WITNESS: Lieutenant now, but it doesn't matter.

19 THE COURT: -- Lt. Kaiser themselves, so when I say
20 cross-examination, it's really like their direct examination,
21 but technically he was called by the plaintiff, and that's why
22 we're using that terminology.

23 It really doesn't matter. You just listen to what the
24 witness says, and then it will be up to you to assess each
25 witness's credibility.

IaaWnea2

Kaiser - Cross

1 You may proceed.

2 MR. MANNINGHAM: Thank you, your Honor.

3 CROSS-EXAMINATION

4 BY MR. MANNINGHAM:

5 Q. Good afternoon, Lt. Kaiser. Can you tell us about your
6 history with the NYPD?

7 A. Yes. I was hired in January 2006. After the academy, I
8 worked in the 32nd Precinct in Harlem. From there, still as a
9 police officer, I went to the Manhattan North Task Force. Got
10 promoted to sergeant, went to the 40th Precinct. The 40th
11 Precinct, I went to internal affairs as sergeant. I got
12 promoted to lieutenant from there, and currently I'm a
13 lieutenant in the 47th Precinct.

14 Q. I'd like to turn your attention now to November 23, 2012.
15 On that day, where were you working?

16 A. The 40th Precinct.

17 Q. And what was your rank on that day?

18 A. Sergeant.

19 Q. Were you in uniform on that day?

20 A. Yes.

21 Q. What was your assignment?

22 A. I was the patrol supervisor.

23 Q. And what are your duties as a patrol supervisor?

24 A. The patrol supervisor is responsible for all field
25 activities, so everything outside of the police station.

IaaWnea2

Kaiser - Cross

1 Q. When you arrived at 805 East 165th Street, what, if
2 anything, did you do?

3 A. When I pulled up, I got out of the car, and I remember
4 seeing a couple officers speaking with a civilian on the
5 sidewalk-street area. I walked over -- that was in front of
6 that location. I walked over to them. I recognized that they
7 were from the conditions team, but I didn't see their
8 supervisor, so I asked where, where their sergeant was, and
9 they said they thought that he had went inside the building.

10 So at that point, I ran -- I went up a flight of
11 stairs into the building, up another flight of stairs, and
12 into -- straight into a hallway. And I walked down that
13 hallway and was standing in the threshold of a kitchen at the
14 end of that hallway.

15 Q. So you were standing in the hallway, correct?

16 A. Yes.

17 Q. And then what happened next?

18 A. I remember looking through the doorway, and I saw Mr. Neal
19 standing at the sink, bleeding profusely and cleaning the blood
20 at the sink. Standing behind him was Sgt. Camhi. I looked at
21 him, and he tugged on his gloves, which to me meant two things:
22 One, try and get some gloves on; and two, we were going to be
23 arresting the person he was standing in front of.

24 At that, shortly thereafter, Mr. Neal started walking
25 towards me. I stepped back into the hallway. Mr. Neal walked

IaaWnea2

Kaiser - Cross

1 into the hallway, followed by Sgt. Camhi.

2 Q. And once you were in the hallway, what did you do?

3 A. Attempted to grab one of Mr. Neal's hands to get -- to get
4 that arm behind his back to place him in cuffs and arrest him.
5 I remember grabbing his arm and having -- being unable to get a
6 grip due to the blood that was on his arms. I kept trying to
7 grab, grab his arms. He kept, at first tense, and then started
8 swinging his arms, so I was unable to get his arm behind his
9 back.

10 This went on for a short time, where he was swinging
11 his arms. We started -- I started banging into the wall back
12 and forth, and eventually, on one of these swings, I was thrown
13 into a door in the hallway. When that door opened up, a pit
14 bull ran out, out of that doorway and actually ran through my
15 legs and into the kitchen.

16 Q. Now, before the dog came out, you said he was swinging his
17 arms. Was he saying anything to you?

18 A. Yeah, the one thing I remember him saying was it's going to
19 take more than you two motherfuckers to arrest us -- to arrest
20 me.

21 Q. After the dog ran out from the bedroom, what happened?

22 A. At that point, we had gotten nowhere as far as getting him
23 into handcuffs. I -- when the dog ran out of the bedroom and
24 in the kitchen, I saw some officers jump up on the counter to
25 get away from the dog.

IaaWnea2

Kaiser - Cross

1 I felt the situation was deteriorating, so at that point, I
2 let go of Mr. Neal and stepped back into another open doorway
3 so I could create distance between myself and him. I
4 unholstered the Taser and said that I was going to deploy the
5 Taser. I turned off -- I turned the Taser on -- there's a
6 safety switch to turn it on, and deployed the Taser in the
7 direction of Mr. Neal.

8 Q. You said the situation was deteriorating. Can you explain
9 what you mean by that?

10 A. Yeah, I -- we -- so it was bad enough that we were
11 wrestling around in this hallway. I knew there was no room for
12 any other officers to come and help myself and Sgt. Camhi.
13 There was just no, there was no way for anyone to come and
14 assist us and get more hands to try and get control of his
15 hands. And once the dog got out and I saw this dog barking and
16 running at the officers and having officers jump on the counter
17 to get away from it, it just seemed dangerous, more dangerous
18 than it was prior to that.

19 Q. You said there was no room to help. Why?

20 A. This hallway we were in, it was approximately three feet
21 across. I'd say two people, one or two walked past each other,
22 at least one would have to turn their body, if not both people.
23 So having myself, Mr. Neal, and Sgt. Camhi in there, that was
24 all the room that -- that anyone could fit in there.

25 Q. I want to step back and ask you about how a Taser works

IaaWnea2

Kaiser - Cross

1 generally. Can you explain to the jury how a Taser works?

2 A. Yes. So, you unholster -- once you unholster the Taser,
3 there's a little switch at the top of it that you switch on,
4 like a tiny light switch. This activates it so the power's on.
5 There's -- that also turns on a laser to give you a target to
6 aim at. And then there's a button, kind of like a trigger,
7 that you depress.

8 And then from the front of the Taser, there's plastic doors
9 that spring off, pop open, two prongs come out of the front of
10 that. They're attached to wires, some kind of, like a fishing
11 line-type wire. And while this is happening, an electrical
12 current starts to go through it for five seconds.

13 Q. You just said that there is a five-second electrical
14 current, correct?

15 A. That's correct.

16 Q. What happens if you continue holding the -- when you
17 depress the Taser, what happens if you continue pressing down
18 on the trigger?

19 A. So, you -- if you depress the trigger and you just squeeze
20 it and didn't let go, it would still only be a five-second
21 cycle. It would just shut off on its own. It wouldn't
22 continue to generate electricity through.

23 Q. What would you have to do if you wanted to send a second
24 cycle of five seconds of electricity?

25 A. You would have to completely release that trigger and pull

IaaWnea2

Kaiser - Cross

1 the trigger again.

2 Q. Can you make the cycle of electricity last longer than five
3 seconds?

4 A. No.

5 Q. Can you make the cycle last shorter than five seconds?

6 A. Yes, if you -- the safety to turn the power on and off, if
7 you switch that off at any time, then it will cut the current.

8 Q. Now, just generally speaking, if the prongs were to
9 penetrate a person's skin, would you be able to take those out
10 and then fire the same prongs again.

11 A. No. Once those prongs have left the cartridge, wherever
12 they land -- on the floor, in a target -- that's it; they're
13 never to be used again. There would be no way to put them back
14 in.

15 Q. And on this day -- now I'm going back to this day.

16 A. OK.

17 Q. -- did you have more than one cartridge on you?

18 A. No, I don't believe I did.

19 Q. Would it have been possible to have more than two?

20 A. More than two? No.

21 Q. Would it have been possible to have two?

22 A. Uh, it could have been.

23 Q. And why do you say that?

24 A. The old -- in 2012, we had different Tasers than we have
25 currently. In 2012, some of the holsters that we had had a box

IaaWnea2

Kaiser - Cross

1 on the front of the holster where you could put an extra
2 cartridge. But generally speaking, there was never an extra
3 cartridge.

4 Q. But it was absolutely for sure you did not have more than
5 two on that day?

6 A. Correct.

7 Q. If the prongs had -- back to generally speaking.

8 If the prongs had penetrated the person's skin, would you
9 need to fire a second set of prongs?

10 A. No.

11 Q. And why is that?

12 A. So, if, if the prongs do penetrate and are stuck in your
13 target -- and are you asking if you need to send a second
14 cycle?

15 Q. Correct. Yes. Thank you.

16 A. Then they'd stay there, and you would just -- the five
17 seconds went, you weren't able to arrest -- get the person in
18 custody, then you could let go of the trigger, depress it
19 again, and those same prongs -- nothing fires out, but the
20 electricity will go through the same prongs and wiring.

21 Q. But here, back to this incident, did the prongs penetrate
22 Mr. Neal's skin?

23 A. No.

24 MR. HIGGINS: Objection, your Honor. There's been no
25 foundation for knowledge that this witness had.

1 THE COURT: Overruled.

2 Q. After you discharged the Taser, what did you do?

3 A. I discharged the Taser, the prongs went out. It didn't
4 appear to have any real effect on Mr. Neal. He continued
5 actively resisting.

6 What you hope for in a case like this, from training
7 videos, is for the central nervous system, muscular lock-up and
8 they fall to the ground and you're able to move in and handcuff
9 the person without resistance. He stayed on his feet. He
10 stayed actively resisting with Sgt. Camhi, so I had the Taser
11 in one hand and then went back in to try and struggle with him
12 with my other hand to continue getting him into cuffs.

13 At this point, we went through --

14 THE COURT: Sorry. I just want to ask one question.

15 When you were asked if the prongs penetrated his skin,
16 how do you know that they didn't?

17 THE WITNESS: I'm saying that based on that he showed
18 no real sign of --

19 THE COURT: OK, but did you actually see his skin?

20 THE WITNESS: No.

21 THE COURT: It was more his reaction physically.

22 THE WITNESS: That's correct.

23 THE COURT: I didn't mean to interrupt you. Please
24 continue your answer.

25 MR. MANNINGHAM: And I'm sorry, if I can ask a

IaaWnea2

Kaiser - Cross

1 question.

2 Q. What about his reaction made you believe that they didn't
3 penetrate his skin?

4 A. That he -- his -- he didn't show any signs of, of being hit
5 with a Taser.

6 Q. You said he kept actively resisting. What do you mean by
7 that? Can you explain what he was doing?

8 A. He was still pushing and shoving with Sgt. Camhi.

9 Q. OK. Then what happened next?

10 A. I went, I went back, tried to grab an arm again and started
11 struggling again. We went into the room where I'd hit the door
12 and the pit bull had come out, and the three of us went down
13 onto a bed, which was just a box spring and a mattress, like,
14 right in front of the bed -- the room there.

15 Q. And what happened on the mattress?

16 A. We continued to struggle, and eventually he was -- he was
17 placed in handcuffs at that time, on the bed.

18 Q. Once Mr. Neal was on the mattress, how long did it take
19 before he was handcuffed?

20 A. Not very long, but I'm really not sure how long. Quickly.
21 Seconds.

22 Q. Did you handcuff Mr. Neal?

23 A. I don't recall if I specifically put the handcuffs on him,
24 but I was there struggling to get him in the handcuffs.

25 Q. What happened after he was handcuffed?

IaaWnea2

Kaiser - Cross

1 A. He was -- some other officers lifted him off the bed, and
2 he was walked out of the apartment.

3 Q. And prior to being handcuffed, did anybody hit Mr. Neal
4 while he was on the bed?

5 A. No.

6 Q. Did you see anybody hit Mr. Neal at any point on this day?

7 A. No.

8 Q. Did you see anyone hit Mr. Neal with a baton on this day?

9 A. No.

10 Q. Did you see anyone hit Mr. Neal with an expandable baton on
11 this day?

12 A. No.

13 Q. When you fired the Taser, did you hear any laughing?

14 A. No.

15 Q. Did you hear anyone saying hit him again?

16 A. No.

17 Q. At any point, did you punch Mr. Neal?

18 A. No.

19 Q. At any point, did you hit Mr. Neal with a baton?

20 A. No.

21 Q. Did you hit Mr. Neal with any object?

22 A. No.

23 Q. After Mr. Neal was handcuffed, what did you do?

24 A. I stood up off the bed, exited the building. Once I had
25 time to look at myself, I realized I had been covered in his

IaaWnea2

Kaiser - Cross

1 blood. My jacket was covered, my hands were covered. I had
2 splatters on my face from when he was yelling at us in the
3 hallway. So at that point, I left and walked out and walked to
4 my police car and then went back to the station house to clean
5 up.

6 Q. Did you seek medical treatment as a result of this
7 incident?

8 MR. HIGGINS: Objection, your Honor.

9 THE COURT: Overruled.

10 A. Yes, I did.

11 Q. What medical treatment did you seek?

12 MR. HIGGINS: Your Honor, can we have a sidebar?

13 THE COURT: OK.

14 (Continued on next page)
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IaaWnea2

Kaiser - Cross

1 (At sidebar)

2 MR. HIGGINS: Your Honor, we had deposition testimony
3 on this, and we believe that they're going to try to get him to
4 testify that he was treated, he took HIV treatment as a
5 protective measure because of the blood that he says he got on
6 him. We think that would be very, very inflammatory.

7 THE COURT: That shouldn't come in.

8 MR. MANNINGHAM: No, it was as a precaution. He will
9 testify that it was just as a precaution. This isn't an
10 injury. He wasn't the one who was injured as a result of the
11 this incident.

12 THE COURT: But was he injured?

13 MS. DeCASTRO: He had to take the HIV cocktail, which
14 made him extremely sick for a period of 30 days, and he had to
15 be out of work.

16 THE COURT: No, that shouldn't be in. If he was
17 actually physically injured from the tussle, then that's OK,
18 but if he just did this as a precaution and got sick as a
19 result, that's not coming in. That's too prejudicial.

20 MS. DeCASTRO: He had marks on his body, and plaintiff
21 was spitting blood on him. If he actually got HIV -- he wasn't
22 injured and that caused him to have to go to the hospital and
23 caused him to have to take this cocktail and be out of work.

24 MR. HIGGINS: Your Honor, any mention of HIV is a
25 powerful, powerful thing and the prejudice of that way

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Kaiser - Cross

1 outweighs the probative value.

2 MS. DeCASTRO: Plaintiff, in the same token, brought
3 that up yesterday, that he got in the middle of a fight with
4 his wife and the woman that had HIV.

5 THE COURT: That's different. I don't think it's
6 appropriate. If you want to ask him if he had any scrapes or
7 physical injuries from the interaction, you can ask him that,
8 but I don't think you should be getting into HIV or the
9 cocktail that he took.

10 MR. MANNINGHAM: Is there any way we can ask him
11 because of this incident he had to miss 30 days of work?

12 THE COURT: No. That should not come in.

13 MR. HIGGINS: It's not probative and purely
14 inflammatory.

15 MS. DeCASTRO: While we're here, just one more thing.
16 They put out an NYPD voucher, the cartridge, the fact
17 that the cartridge -- we have all of those things. We can
18 introduce them right now.

19 THE COURT: You can use them right now. On the patrol
20 guide, I don't think there's any reason it should come in. You
21 can ask him questions about the patrol guide if you think he
22 didn't comply with the patrol guide, and I'll give a limiting
23 instruction, but I don't think there's a reason to admit it
24 into evidence. You can just ask him questions. If there's a
25 suggestion that he did something wrong with respect to the

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Kaiser - Cross

1 vouchering or the paperwork afterwards, you can ask him about
2 that.

3 MS. DeCASTRO: Can we introduce the exhibits into
4 evidence?

5 THE COURT: Which exhibits?

6 MS. DeCASTRO: The cartridge voucher and his memo
7 book, the activity report, all the things he created, matched
8 the number. The document he did not create, which is the
9 property invoice, somebody else filled that out. They filled
10 it out improperly, but the number on this matches the cartridge
11 voucher number.

12 MR. HIGGINS: Here's why we wanted to get Rule No. 20
13 in. That's the rule that says you have to -- we want this in.
14 We want that in too, your Honor.

15 THE COURT: You both want all this stuff in?

16 MS. DeCASTRO: But with the cartridge stuff --

17 THE COURT: You can introduce the cartridge. You can
18 ask him about that particular provision so there will be
19 testimony about it. You don't need the actual document.

20 MR. HIGGINS: OK.

21 (Continued on next page)

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Kaiser - Redirect

1 (In open court)

2 BY MR. MANNINGHAM:

3 Q. Lt. Kaiser, I want to ask about the Taser prongs. Just
4 generally speaking, if Taser prongs had penetrated a person's
5 skin, would you be authorized to take those out?

6 A. No.

7 Q. Who, if anyone, is authorized to take those out?

8 A. A doctor. It has to be done in a hospital.

9 MR. MANNINGHAM: Nothing further, your Honor. Thank
10 you.

11 THE COURT: All right.

12 Redirect.

13 REDIRECT EXAMINATION

14 BY MR. HIGGINS:

15 Q. Officer Kaiser, you testified that you discharged the Taser
16 once and only once, is that correct?

17 A. Yes.

18 Q. If you had discharged it more than once, you would have had
19 to fill out paperwork showing the number of times you
20 discharged it, isn't that correct?

21 A. That I would have had to fill out paperwork?

22 Q. Yes.

23 A. Well, every time -- we're speaking about activity logs.

24 Every time you discharge a Taser, whether you're testing it or
25 using it in the field, you put it in your activity log.

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Kaiser - Redirect

1 Q. And you'd have to voucher each cartridge that was used by
2 you when you discharged the Taser, isn't that correct?

3 A. The cartridge would be vouchered.

4 Q. And each cartridge has its own unique serial number, is
5 that correct?

6 A. That's correct.

7 Q. And you're required to log that serial number into your
8 activity log, isn't that correct?

9 A. The cartridge number?

10 Q. Correct.

11 A. If you fired it?

12 Q. Yes.

13 A. I'd have to take a look.

14 Q. Take a look at?

15 A. The guide, at the --

16 Q. What's been marked as Plaintiff's Exhibit 1?

17 A. Yes.

18 Q. Please do.

19 A. The only thing that I'm seeing is when you're, when you're
20 testing it.

21 Q. What page is that you're looking at?

22 A. 5 of 10, or NYC000239.

23 Q. At the top, paragraph 12?

24 A. Correct.

25 Q. Can you look at page 6, under paragraphs 20 to 21, and see

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Kaiser - Redirect

1 if that refreshes your recollection on what requirements you
2 have with regard to vouchering of cartridges?

3 A. You said 20 to 21?

4 Q. No. I'm saying page 6.

5 A. Page 6.

6 Q. Yes.

7 A. And you said?

8 Q. Under paragraph 21, in italics, the second italics.

9 A. Oh.

10 Q. Can you read that and see if it refreshes your memory?

11 A. OK. I've read it.

12 Q. Does that refresh your memory for the process you were
13 supposed to follow if a cartridge has been discharged?

14 A. Well, you're asking about serial numbers, correct?

15 Q. Yes.

16 A. OK. Then, then no to serial numbers.

17 Q. When you voucher something -- you've vouchered documents
18 before in the course of your duties as a police officer, is
19 that correct?

20 A. Correct.

21 Q. When you voucher an item, you identify that item for
22 purposes of that entry on that voucher, is that correct?

23 A. Correct.

24 Q. And each cartridge for the Taser has a serial number, as
25 you testified, is that right?

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Kaiser - Redirect

1 A. Correct.

2 Q. So, on each voucher you enter, or you have entered, the
3 correct serial number so that there's a record of how many
4 cartridges and which cartridges have been discharged, isn't
5 that correct?

6 A. I don't believe I've ever vouchered a cartridge.

7 Q. Is your testimony that -- you testified that you discharged
8 a Taser on November 23, 2012. So is it your testimony that you
9 did not voucher the cartridge that was discharged that evening?

10 A. I did not. Another officer did.

11 Q. Were you responsible for providing the cartridge to that
12 officer?

13 A. Yes.

14 Q. You were required to provide information so that the
15 information that was entered by the officer was true and
16 accurate, though, isn't that correct?

17 A. Correct.

18 Q. And the person who actually entered the information was
19 your supervisor, isn't that correct?

20 MR. MANNINGHAM: Objection.

21 A. What document?

22 THE COURT: Overruled.

23 A. What document? The property clerk invoice?

24 Q. Yes.

25 A. No.

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Kaiser - Redirect

1 Q. The voucher.

2 A. No.

3 Q. And the reason why -- well, the reason why your superior
4 has to be involved is because a discharge of a Taser is a
5 serious matter, isn't it, Officer?

6 MR. MANNINGHAM: Objection.

7 THE COURT: Yes. Sustained.

8 First, you just testified it wasn't your supervisor.

9 THE WITNESS: I said -- yes, it was not a supervisor.
10 That invoice --

11 MR. HIGGINS: I'm sorry. I couldn't hear the witness.
12 I apologize, your Honor.

13 THE COURT: All right. Repeat your answer.

14 THE WITNESS: No, it was not a supervisor who invoiced
15 the cartridge.

16 BY MR. HIGGINS:

17 Q. And the cartridge number that was invoiced on the voucher
18 was supposed to match the cartridge number on the less-lethal
19 report that you completed, isn't that correct?

20 A. The cartridge serial number?

21 Q. Yes.

22 A. Should match on both pieces of paperwork?

23 Q. Yes.

24 A. I know on the less-lethal report, it's cartridge serial
25 number. On the PCI, serial number, identifying number, I'm not

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Kaiser - Redirect

1 sure if it's the exact same language.

2 Q. I'm sorry. You used acronyms or initials there. PCI?

3 A. PCI, which is property clerk invoice.

4 Q. Property clerk invoice?

5 A. Yes.

6 Q. Like a voucher?

7 A. It's a voucher, yes.

8 Q. The same thing?

9 A. Yes.

10 Q. PCI is same as voucher?

11 A. Yes.

12 Q. Your testimony was that the serial number on the PCI, the
13 voucher, is supposed to match the serial number of the
14 cartridge on the less-lethal-use report, isn't that correct?

15 A. The cartridge, if it's the same cartridge, they should be
16 the same.

17 Q. And if more than one cartridge was used, then there should
18 be more than one PCI voucher, isn't that correct?

19 A. I don't know if they would both go in, on one voucher or if
20 they would do two separate, to be honest. I don't know.

21 Q. OK. Fair enough. But then if they were both entered on
22 the voucher, then the voucher would reflect the two or more
23 cartridges that were actually discharged, isn't that fair?

24 A. That's -- that's correct.

25 Q. And you then had an obligation to enter that information

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Kaiser - Redirect

1 into your daily activity log that you talked about earlier,
2 isn't that correct?

3 A. Yes.

4 Q. The less-lethal report form also asks a series of questions
5 about whether or not the use of the Taser was effective, isn't
6 that correct?

7 A. I believe so.

8 Q. It asks generally whether it was a help or a hindrance in
9 performing your duties as an officer, isn't that correct?

10 A. I believe so. I'd have to look at one to know specifically
11 what you're talking about.

12 Q. Now, you just testified that Mr. Neal didn't show --

13 MR. MANNINGHAM: Objection, your Honor.

14 Q. -- any signs --

15 MR. MANNINGHAM: If he could provide the witness with
16 the form if he's going to be asking questions about it.

17 MR. HIGGINS: I wasn't.

18 THE COURT: If for any reason you don't remember
19 something or you need to see something, just say you don't
20 remember and you'll be shown the form.

21 THE WITNESS: OK.

22 THE COURT: But otherwise, you're moving on to another
23 series of questions, so please proceed.

24 MR. HIGGINS: Your Honor, can we mark this as
25 plaintiff's 2?

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Kaiser - Redirect

1 THE COURT: For identification?

2 MR. HIGGINS: Yes, your Honor.

3 THE COURT: Yes.

4 MR. HIGGINS: May I show it to the witness, your
5 Honor?

6 THE COURT: Yes. Thanks.

7 BY MR. HIGGINS:

8 Q. Officer Kaiser, looking at what's been marked for
9 identification as plaintiff's 2, sort of at the top, can you
10 just read it there and see if that refreshes your memory about
11 the detail that's to be provided regarding the efficacy of the
12 use of the Taser?

13 A. At the top, you said, right?

14 Q. About two inches from the top.

15 A. Restraint by --

16 Q. Using the device.

17 A. Using the device, "was a help" is marked off.

18 Q. You just testified that the Taser, that Mr. Neal showed no
19 signs of any effect of the Taser after you discharged it on
20 him. Was that your testimony?

21 A. That's correct.

22 Q. If the Taser was no help at all, then the box on the
23 less-lethal form should have been checked that it had no
24 effect, is that correct?

25 A. I didn't fill this out, so I can't say why they checked --

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Kaiser - Redirect

1 Q. Who filled it out?

2 A. Lt. Perez.

3 Q. And who was Lt. Perez to you? Was he your superior? Or
4 was he --

5 A. Superior.

6 Q. And the superior officer was required to fill out this form
7 under the New York Police Department patrol guide, isn't that
8 right?

9 A. Correct.

10 Q. And the information that Officer Perez entered on the
11 less-lethal-use form was information he got from you, isn't
12 that correct?

13 A. He, he interviewed me about the incident.

14 Q. Lt. Perez was not there when you discharged the Taser and
15 shot Mr. Neal, is that right?

16 A. Correct. He was not there when I discharged the Taser.

17 Q. In order for him to intelligently fill out the form, he had
18 to base it on information that you provided to him, isn't that
19 right?

20 A. Correct.

21 Q. So the information on this form, then, was provided by you
22 to Lt. Perez, is that right?

23 A. He interviewed me and then filled out the form.

24 Q. And this form was filled out that very night, isn't that
25 correct?

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Kaiser - Redirect

1 A. Correct.

2 Q. In fact, almost immediately after you came back from that,
3 that visit to 805 East 165th Street, isn't that correct?

4 A. I don't recall when in the night, but that -- that shift,
5 yes.

6 Q. Just to refresh your memory, I'd refer you to the top.
7 There is a description of the time. If you can look at that
8 and see if that refreshes your memory as to the timing of when
9 this less-lethal report was filled out. Do you see that?

10 MR. MANNINGHAM: Objection.

11 THE COURT: Overruled.

12 Are you looking for something in particular? What are
13 you looking for?

14 A. You're asking what time this was filled out?

15 Q. Yes.

16 A. Are you asking for the fax transmittal time?

17 Q. No, no, no.

18 A. No?

19 Q. On the form, about an inch down, see where it says --

20 THE COURT: You mean the time of the occurrence?

21 A. Yeah, that's the time of the occurrence.

22 Q. At the bottom, the form is dated and filed the same day,
23 though, isn't that correct?

24 A. Yes, that's correct.

25 Q. Is there a time on the fax banner? I can't really read it.

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Kaiser - Redirect

1 THE COURT: The fax is years later, so I don't think
2 that's what you're getting at.

3 Mr. Higgins, about how much longer do you have? I
4 told the jury they were going to leave at 2:30. Do you have a
5 few more minutes?

6 MR. HIGGINS: Your Honor, I would like to offer what's
7 been marked as Plaintiff's Exhibit 2 into evidence.

8 MR. MANNINGHAM: No objection.

9 THE COURT: All right. It will be admitted.

10 (Plaintiff's Exhibit 2 received in evidence)

11 THE COURT: Do you have a few more minute, or do you
12 have a lot of time?

13 MR. HIGGINS: I think I have more, so we should
14 probably break now.

15 THE COURT: All right.

16 Folks, we're going to adjourn for the day. We'll
17 start again tomorrow promptly at ten. Breakfast will be
18 waiting for you at 9:30. Just remember to keep an open mind,
19 and don't discuss the case.

20 Have a nice afternoon. Thank you.

21 (Continued on next page)

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1 (Jury not present)

2 THE COURT: You can step down. Thank you.

3 THE WITNESS: Leave these here?

4 THE COURT: Yes, sure.

5 MR. HIGGINS: Your Honor, should the witness be given
6 the usual warnings, or he's a police officer and he knows? He
7 shouldn't be asked questions.

8 THE COURT: He doesn't have to be. We're going to
9 talk about scheduling and the charge, but it's up to defendants
10 if they want to stay and discuss the charge or not.

11 Do you all need a break? Do you all want to take a
12 break for a couple minutes, less than five, and then we'll come
13 back and discuss the charge?

14 MR. HIGGINS: Yes.

15 THE COURT: The only thing I want to ask now is just
16 about scheduling.

17 You never called Ms. Almonte today. I assume that was
18 intentional. Do you intend to call her tomorrow morning?

19 MS. DeCASTRO: We do not.

20 THE COURT: OK. After Lt. Kaiser testifies, are we
21 done with the witnesses?

22 MR. MANNINGHAM: Yes, your Honor.

23 THE COURT: All right. Good. Why don't we just take
24 really a five-minute break. We'll discuss the charge. I'm
25 going to have my law clerk hand out the postverdict form; we'll

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1 discuss that. If we don't finish our discussion by 3:30 today,
2 we'll just meet earlier tomorrow morning, just so that you all
3 have the charge before your summations. It seems like we're
4 going to get to summations in the morning.

5 Thank you. See you in a few minutes.

6 (Recess)

7 THE COURT: Everyone can be seated.

8 Did you all have time to review the draft charge that
9 I distributed?

10 MR. DOGRAMACI: Plaintiff did, your Honor.

11 MS. DeCASTRO: We did, your Honor.

12 THE COURT: Great. Thanks. Why don't we hear first
13 from plaintiff.

14 Do you want to just let me know what objections you
15 have?

16 MR. DOGRAMACI: Only two minor objections, your Honor.

17 One is on pages 18 to 19, from the bottom of 18 to the
18 top of 19. The sentence says, "Keep in mind that in order to
19 recover damages for pain and suffering, plaintiff must present
20 credible evidence with respect to his suffering and
21 corroboration that a defendant's impermissible conduct caused
22 this suffering."

23 It's just the words saying that corroboration is
24 required. It makes it sound like something more than just
25 credible. I mean, the evidence we have is just plaintiff's

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1 testimony, and this makes it sound like plaintiff's own
2 testimony is not enough; there has to be some additional
3 evidence corroborating plaintiff's testimony.

4 THE COURT: Yes, I agree with you. We should take out
5 the word "corroboration" but leave in the concept that the
6 defendant's impermissible conduct caused the suffering. Let's
7 just think about how to word it.

8 MR. DOGRAMACI: You could, for example, just say "must
9 present credible evidence with respect to his suffering and
10 that a defendant's impermissible conduct caused this
11 suffering."

12 THE COURT: Yes, I think that's fine.

13 MR. DOGRAMACI: OK.

14 MS. DeCASTRO: I'm sorry. What's the proposal?

15 THE COURT: We're just taking out the word
16 "corroboration" at the top of 19, so it will read:

17 "A plaintiff must present credible evidence with
18 respect to his suffering and that a defendant's impermissible
19 conduct caused this suffering."

20 MS. DeCASTRO: Could we add "present credible evidence
21 that defendant's impermissible conduct caused the suffering"?

22 THE COURT: The way the sentence reads, I think, the
23 credible evidence goes to both the suffering and that the
24 defendant's impermissible conduct caused it. I think it's fine
25 as is.

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1 You had one more objection?

2 MR. DOGRAMACI: Yes. On page 19, in the middle of the
3 page, you give the jury an illustration about if compensatory
4 damages are established, and I think the illustration is very
5 useful, but just about the use of \$100. This reminds me of the
6 Court's ruling that plaintiff cannot in summation suggest a
7 particular dollar figure because that would anchor the jury to
8 that particular number.

9 Here, we have a hundred dollars being mentioned, and
10 in order not to anchor that number in the jury's mind, maybe we
11 could just say X.

12 THE COURT: I'll either do X or a particular amount,
13 the words "a particular amount" without specifying the amount.

14 MR. DOGRAMACI: OK.

15 THE COURT: I think that's also a fair criticism.

16 MR. DOGRAMACI: Thank you, your Honor. That's all
17 from plaintiff.

18 THE COURT: From defense counsel.

19 MS. DeCASTRO: Yes, your Honor.

20 On page 13, last paragraph, we would ask for there to
21 be some language "as alleged."

22 THE COURT: Where are you looking?

23 MS. DeCASTRO: "Each of the following three elements
24 'as alleged' as to each defendant."

25 THE COURT: I don't think it's necessary here. I

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1 mean, I'm happy to put in "as alleged" elsewhere, but I don't
2 think in this sentence it's suggesting anything. It's just
3 saying that he must establish by a preponderance of the
4 evidence each of the following elements. I don't think "as
5 alleged" adds much in this context.

6 What's your next objection?

7 MS. DeCASTRO: We continue to object on 14 to the
8 language about, "you are to presume that officers' decision to
9 arrest Neal was lawful here," but we understand the Court's
10 prior ruling.

11 THE COURT: Right. Look, I think this is further than
12 plaintiff wanted me to go, but I understand. Your objection is
13 noted for the record.

14 MS. DeCASTRO: Sorry, your Honor. I'm trying to find
15 where "as alleged" might be a better place.

16 THE COURT: What are you concerned about with respect
17 to "as alleged"? Are you concerned that the charge suggests
18 the truthfulness of the allegations, or are you trying to tie
19 his allegations to the elements? What is your concern? Why is
20 it that you think it's needed?

21 MS. DeCASTRO: I guess both, because as to the Taser,
22 it is about whether or not it was reasonable. But as to the
23 baton, they completely deny that the baton was used.

24 THE COURT: Then let's look in sections that discuss
25 the baton.

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1 MS. DeCASTRO: OK.

2 THE COURT: I tend not to marshal the evidence at
3 trial. I know there are some references to the baton and the
4 Taser, but I try to stay away from doing it and have the charge
5 be neutral, and then you can make your arguments. But I'm
6 happy to look in the particular section where it is mentioned.

7 I mean, I know that on page 13, I specifically noted
8 that "plaintiff brings two claims under 1983 asserting that two
9 of the defendants, Romaine Wilson and Michael Kaiser, used
10 excessive force against him, in violation of the Fourth
11 Amendment," so we said that.

12 MS. DeCASTRO: Your Honor, could we add at least
13 something to that effect after that paragraph you just read;
14 "defendants deny that a baton was ever used"? Right before
15 that, we're talking about what plaintiff alleges.

16 THE COURT: Let me see.

17 What about putting it on page 14 in the last full
18 paragraph. The first line starts with "Every person has the
19 right not to be subjected to unreasonable or excessive force by
20 a law enforcement officer. On the other hand, an officer has
21 the right to use such force as is necessary under a given set
22 of circumstances. As I've already explained, you're to presume
23 that the officers' decision to arrest Neal was lawful here.
24 The question for you in assessing whether Neal was deprived of
25 his Fourth Amendment rights are (1) whether each instance of

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1 force" --

2 Do you want to say "alleged actually occurred in the
3 course of that arrest"? And "(2) if it did" --

4 MS. DeCASTRO: Yes.

5 THE COURT: "Whether each instance of force as
6 alleged" or "actually occurred as alleged"?

7 MS. DeCASTRO: Yes, that's fine with us.

8 MR. DOGRAMACI: Your Honor, on behalf of plaintiff,
9 there's no dispute that force was used, though. The only
10 dispute is whether the force used was excessive.

11 THE COURT: There is dispute about whether some of the
12 force was used. There's no dispute that some force was used.

13 MR. DOGRAMACI: Yes.

14 THE COURT: But there's definitely a dispute as to
15 precisely what force was used.

16 MR. DOGRAMACI: OK.

17 THE COURT: OK. We've added that in.

18 I also meant to ask a very general question. Do you
19 want me to add titles? Do you want me to say Mr. Neal and then
20 officer or sergeant or lieutenant? Right now, I've stripped it
21 of titles and I've just had it be Neal and Wilson and Kaiser
22 and left out all the titles, in part, because the officers'
23 titles changed. But I want to be consistent, so if I'm giving
24 an officer a title, I want Mr. Neal to be referred to as
25 Mr. Neal.

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1 MR. DOGRAMACI: We would appreciate him being referred
2 to as Mr. Neal, your Honor.

3 THE COURT: OK.

4 MS. DeCASTRO: Then maybe the officers could also be
5 referred to as Mr.

6 THE COURT: You think?

7 MS. DeCASTRO: Let me just confer.

8 THE COURT: OK.

9 MS. DeCASTRO: Your Honor, we would object and just
10 ask for it to be Neal and then the last names. It just gets
11 complicated.

12 THE COURT: If Mr. Neal wants to be called Mr. Neal,
13 why don't we just put in the officers' titles as they testified
14 today. You'll tell me what their titles are. I know kaiser's
15 a lieutenant. I think Camhi's a lieutenant. Just give us the
16 titles, we'll put in their present titles, and we'll put in
17 Mr. Neal.

18 MS. DeCASTRO: OK.

19 THE COURT: We'll either do that, if that's what
20 plaintiff wants; otherwise we'll take out all the titles out.
21 But if you want Mr. for Mr. Neal, then we'll put in the
22 officers' titles. OK?

23 MS. DeCASTRO: That's OK with us.

24 THE COURT: Why don't you just tell me. We have
25 Mr. Neal. We have now Lt. Kaiser and Camhi.

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1 And what is Wilson's title? What is Rodriguez's?
2 What is Green's?

3 MS. DeCASTRO: Wilson is a sergeant.

4 THE COURT: What's Green's?

5 MS. DeCASTRO: Green is a police officer.

6 THE COURT: OK. And what is Garciarivas's?

7 MS. DeCASTRO: Police officer. And Rodriguez
8 remaining as detective.

9 THE COURT: OK. Did you have any other objections?

10 MS. DeCASTRO: We have nothing else.

11 THE COURT: OK.

12 MR. DOGRAMACI: Your Honor, I caught one other thing.

13 THE COURT: Yes.

14 MR. DOGRAMACI: On page 10, a very small thing.

15 In the second full paragraph, in the middle, it says,
16 "Likewise, you should note any evidence of hostility or
17 affection that the witness may have towards one of the
18 parties."

19 Since as it turns out every witness is a party, I
20 think that sentence should be deleted.

21 THE COURT: OK. I'll take out that sentence. I'm
22 also going to take out references to "her," because I thought
23 we'd have a female witness. I'll make it all male because all
24 the witnesses were male.

25 Great. Thank you all for reviewing this so quickly.

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1 I know we were on a tight schedule.

2 Do you have any objections to the draft verdict form?

3 MR. DOGRAMACI: Plaintiff has none, your Honor.

4 MR. MANNINGHAM: Defendants have just two.

5 The first one would be No. 1, just adding, at the very
6 end of the sentence, "any of the following defendants."

7 THE COURT: Sorry. Tell me where you are again,
8 please.

9 MR. MANNINGHAM: Sorry. No. 1, under liability.

10 THE COURT: OK.

11 MR. MANNINGHAM: Just adding, at the end of the
12 sentence, "any of the following defendants."

13 THE COURT: OK.

14 MR. MANNINGHAM: And then the second objection would
15 be under damages, on the second page, No. 3.

16 We would just ask that the Court ask, has plaintiff
17 proven by -- like, If you answer yes to either questions one or
18 two, has plaintiff proven by a preponderance of the credible
19 evidence that he suffered actual compensatory damages, because
20 as written now, it somewhat implies that if you answered yes to
21 any part of question one or two, then he's entitled to
22 compensatory damages.

23 THE COURT: All right. I'll write, "If you answered
24 yes to any part of question 1 or question 2, has Mr. Neal
25 proven by a preponderance of the credible evidence that he is

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1 entitled to compensatory damages? If so, please enter the
2 amount of compensatory damages" -- and I'll take out "if
3 any" -- "that you award to Mr. Neal."

4 MR. MANNINGHAM: Thank you, your Honor.

5 And then the next question would be, if not, how much
6 do you award in nominal damages?

7 THE COURT: I'm sorry. What's the problem with the
8 way it's written now?

9 MR. MANNINGHAM: I'm sorry, your Honor. The next
10 question is fine.

11 THE COURT: OK. Any additional objections?

12 MR. MANNINGHAM: Just one last thing.

13 We just want to note our objection that we object to
14 the portion that addresses punitive damages.

15 THE COURT: Including it at all?

16 MR. MANNINGHAM: Yes, because we don't think the
17 evidence supports punitive damages in this case.

18 THE COURT: OK. I'll take that under consideration
19 and consider that argument after the jury's verdict.

20 MR. MANNINGHAM: Thank you, your Honor.

21 MR. DOGRAMACI: Just to be clear, I want to know when,
22 for our sake, when is the time to make a motion for a directed
23 verdict? I mean, I thought we would orally make those motions
24 right after the evidence is completely submitted.

25 THE COURT: Yes, I think you should orally make them

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1 after the evidence is complete.

2 It's up to you. The evidence is not quite complete.
3 Why don't we do this. We'll finish the testimony tomorrow
4 morning. We'll take a short break at that time. You can make
5 the motion. If it's going to be lengthy, which I doubt, then I
6 would ask you maybe to just officially make the motion but
7 maybe articulate your reasons while the jury's deliberating,
8 but I doubt you'll take too long.

9 MR. DOGRAMACI: I think for plaintiff, we just want to
10 make a record.

11 THE COURT: OK. Then you'll do that. We'll take a
12 break after all the evidence is in. You can make your record,
13 say what you'd like to say. I'll hear from defense counsel
14 briefly. And then we'll bring them back in for summations.
15 Again, defense summation first and plaintiff second.

16 I will tell you that I give each of the jurors a copy
17 of the charge to read along. What you should all have ready is
18 you should have a piece of paper with all the witnesses listed.
19 Actually, we have that. We've taken care of that.

20 What you all should do is just organize your exhibits
21 and show them to each other so that we have one set of exhibits
22 that we can just send back all at once. OK?

23 The only other thing, I think, that occurred to me is
24 just this issue with respect to the patrol guide. Initially
25 when we discussed this, I had thought you were going to use the

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1 patrol guide with respect to use of force.

2 MR. DOGRAMACI: On that point, your Honor, I actually
3 wanted to say something about that, because I wanted to make
4 sure there isn't any confusion.

5 The particular 10- or 11-page patrol guide which has
6 been discussed so far today is the patrol guide that was
7 actually filed with the Court with the motions *in limine*, and
8 it has a section which relates to use of force. That's what we
9 argued on the motions *in limine* is relevant, and that's what we
10 expect.

11 THE COURT: Just show me exactly what part of it you
12 want to use.

13 MR. DOGRAMACI: Yes.

14 Bottom of page 5, it says if you're using a Taser,
15 don't shoot more than three cycles of electricity out of it.

16 THE COURT: I am going to let you elicit that. Again,
17 I don't think this needs to be in evidence as a document, but I
18 am going to allow you elicit it.

19 What I'm inclined to do is then give a limiting
20 instruction, and I took this limiting instruction from one of
21 Judge Castel's cases, and say, "You've heard testimony
22 regarding the New York City Police Department patrol guide."
23 Maybe I'll change the wording. This is really an interim
24 order.

25 MS. DeCASTRO: Your Honor, some orders are actually a

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1 part of the patrol guide. They get put in.

2 THE COURT: I see. OK. Why don't we say, "Regarding
3 New York City patrol guide."

4 Why don't I say, "You've heard testimony regarding a
5 portion of the New York City Police Department patrol guide.
6 It's important to understand that the patrol guide and the
7 federal Constitution are not coextensive. A particular action
8 could violate a provision of the patrol guide without violating
9 the Constitution. Similarly, an officer could violate the
10 Constitution without violating any portion of the patrol guide.
11 In this case, it's the federal Constitution that controls.
12 Therefore, you must determine whether the plaintiff's
13 constitutional rights were violated, not whether all parties
14 complied with the rules and regulations of the NYPD."

15 That's the instruction I was going to give. I was
16 going to give it right after there was cross-examination about
17 those portions of the patrol guide. I wasn't inclined to put
18 it in the final charge.

19 MR. DOGRAMACI: I believe that it's already been held
20 by your Honor. You've already decided that while this bit of
21 patrol guide is not determinative of what the Constitution
22 requires, it's relevant to a determination of what's
23 objectively reasonable. We would ask that your Honor also make
24 sure that it's clear to the jury that it has some relevance;
25 it's a factor to be weighed.

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1 THE COURT: I can add in language that says, "In this
2 case, although the patrol guide is relevant, it's the federal
3 Constitution that controls. Therefore, you must determine
4 whether the plaintiff's constitutional rights were violated,
5 not whether all parties complied with the rules and regulations
6 of the NYPD."

7 MR. DOGRAMACI: OK.

8 MS. DeCASTRO: We would object to that, because it's
9 not really relevant. It's useful for the assessment of the
10 officers' reasonableness and the reasonableness of the force,
11 but it's not in and of itself relevant.

12 THE COURT: Do you want me to say that? Do you want
13 me to say, "Although it's relevant to the reasonableness of the
14 officers' use of force, the federal Constitution controls"?

15 MS. DeCASTRO: We just object generally to all of
16 this, and I think the way that you had it at first was fine.
17 The only problem we had with it was, I think, that part of the
18 sentence was violating the Constitution without violating the
19 patrol guide. I think that's highly prejudicial to police
20 officers because it implies that the patrol guide -- you could
21 violate the Constitution without violating a document that
22 their agency created. I just think that's prejudicial.

23 THE COURT: You think the line "particular action
24 could violate a provision of the patrol guide without violating
25 the Constitution" is prejudicial to you?

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1 MS. DeCASTRO: No, no, no. Violating the Constitution
2 without violating the patrol guide. That's the problem.

3 THE COURT: Oh. I mean, I can take out that line. I
4 don't think it is, but I don't think it helps plaintiff either,
5 so I mean, I'll take that out.

6 I think I will just add in a little bit of language
7 from the Second Circuit case that I cited to you in ruling on
8 the motions *in limine*, but I will make clear that it's the
9 federal Constitution that controls.

10 MR. DOGRAMACI: Just to anticipate, in my summation,
11 I'm going to say that it's a relevant factor to be considered
12 by the jury.

13 THE COURT: All right. What I'll do is I will
14 distribute this language to you shortly. I'll work on the
15 language and I'll distribute it to you. Why don't you get here
16 at 9:45 tomorrow, so if we need to discuss it before summations
17 we can do it then. OK?

18 MS. DeCASTRO: Could we talk about an issue tomorrow?

19 THE COURT: Sure, or we can talk about it now.

20 MS. DeCASTRO: OK.

21 THE COURT: I still have a few minutes.

22 MS. DeCASTRO: Another issue on this patrol guide is
23 they're not being asked about the use-of-force provision.

24 THE COURT: Well, they weren't thus far, and you're
25 right, which is how I started the discussion today.

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1 MS. DeCASTRO: I apologize.

2 THE COURT: Instead, my understanding is Kaiser was
3 being impeached on, I guess it goes to credibility, as to the
4 paperwork afterwards. But what Mr. Dogramaci just said is that
5 there's a portion of this that suggests that you shouldn't do
6 it more than three times. It is says, "In no situation will
7 more than three standard discharge cycles be used against any
8 subject." That does go to use of force.

9 MS. DeCASTRO: Right, but there's no evidence that it
10 was used -- well, the officers deny using it more than three
11 times.

12 THE COURT: I know, but that's a factual dispute.
13 Right?

14 MS. DeCASTRO: Right, but then the patrol guide
15 doesn't go to the reasonableness of the officer's actions
16 because the officer disputes that he used it more than three
17 times. It would go to the reasonableness if --

18 THE COURT: It depends whether you believe Mr. Neal or
19 not. Right? Or if you believe the officers. My recollection
20 is, and correct me, Mr. Neal wasn't sure exactly how many
21 times.

22 Did he say four to six?

23 MR. DOGRAMACI: He said four to six, your Honor.

24 THE COURT: Right. He said four to six. The jury may
25 well not believe him, but if they believe him and then the

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1 patrol guide says, in any event, no more than three, I think
2 that does go to reasonableness.

3 Again, the credibility assessment's for the jury.

4 MS. DeCASTRO: Your Honor, could we write a letter
5 about this tonight? I don't think the patrol guide really says
6 that. I think it's advisable. I don't really know which part.
7 I don't have it.

8 THE COURT: The bottom of page 5 says:

9 "When a CED is used against a subject, it shall be for
10 one standard discharge cycle, and the member using the CED must
11 then reassess the situation. Only the minimum number of cycles
12 necessary to place the subject in custody shall be used. In no
13 situation will more than three standard discharge cycles be
14 used against any subject. Officers are reminded of other
15 appropriate force options should the CED fail."

16 MS. DeCASTRO: Could we submit an additional letter
17 tonight?

18 THE COURT: You can. I think I've already ruled on
19 this, and I thought the instruction was helpful just to clarify
20 that it's not the same standard as the constitutional standard,
21 and I think that's important for the jury to know, but using
22 that language -- I believe it was dicta from the circuit -- I
23 do think is relevant as well.

24 MR. DOGRAMACI: Your Honor, if I could make one point?

25 The language you just read was directly quoted on the

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1 motions *in limine*, the entire paragraph. We directly quoted
2 it. We made it an issue on the motions *in limine*. We won that
3 motion on this issue. After we won on this issue, defendants
4 submitted a two-page letter over the weekend. Yet another
5 letter, I don't see how that's a good use of the time of
6 plaintiff or of defendants right now.

7 THE COURT: It's their time, because they're the ones
8 writing the letter. I agree with you. I've already ruled on
9 this, as I just noted, and I fully intend to be consistent.
10 But I'm also willing to keep an open mind and read what I get.

11 We'll be here tomorrow at 9:45, and we should be done
12 in the morning.

13 Mr. Higgins.

14 MR. HIGGINS: I just want to be heard on two documents
15 that I'd like to mark tomorrow and offer into evidence, why we
16 showed it's admissible, and we think we can. And one is the
17 voucher for the cartridge. And the point that I not only came
18 across --

19 THE COURT: I thought there was no objection to the
20 voucher and the cartridge, because I think defendants want to
21 introduce the cartridge.

22 MS. DeCASTRO: Yes.

23 THE COURT: Right?

24 MS. DeCASTRO: No objection.

25 THE COURT: There's no objection to that.

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1 MR. HIGGINS: And is there an objection to this log?

2 MS. DeCASTRO: No objection.

3 THE COURT: Right.

4 MR. HIGGINS: Sorry.

5 THE COURT: Don't worry about it. Those there's no
6 objection to, so I think we're in good shape. OK?

7 MR. HIGGINS: Thank you, your Honor.

8 THE COURT: Anything else?

9 All right. I'll see you all in the morning. Thank
10 you.

11 (Adjourned to October 11, 2018, at 9:45 a.m.)

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